



SLUM REHABILITATION AUTHORITY

**BEFORE THE CHIEF EXECUTIVE OFFICER,
SLUM REHABILITATION AUTHORITY,
BANDRA (EAST), MUMBAI**

SRA/ENG/1263/PN/PL/LOI

Shri. Hemant Jawaharlal Nahata,
Flat No.18, 4th Floor, Babuline Complex,
S.V. Road, Malad (West),
Mumbai 400 064

... Applicant

V/s

1. M/s. Nirman Realtors and Developers Ltd.
14, Nyay Sagar CHS Ltd. Next to BJP Office,
Old Nagardas Road, Andheri (East),
Mumbai 400 069
2. Siddharth Housing Pvt. Ltd.
Office No.205, Commerce House,
N.M. Road, Fort, Mumbai 400 023
3. M/s. Mass Enclave,
602, Makani Center, Road No.35,
Behind Linkway Hotel,
Khar (West), Mumbai 400 052
4. Shree Azad CHS Ltd.
Rani Sati Marg, Azad Link Road,
Sanjay Nagar, Pathan Wadi,
Malad (East), Mumbai 400 097



... Respondents

ORDER

(Passed on 4/8/22)

These proceedings are initiated pursuant to the order of Hon'ble Apex Grievance Redressal Committee dated 05.12.2019 in Application No.285 of 2019. Through said order the Hon'ble Apex Grievance Redressal Committee remanded back the application to


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the Chief Executive Officer/SRA and requested to reconsider the documents submitted by Applicant. Pursuant to said directions notices were issued to all the parties.

The Applicant has submitted an Application dated 16.09.2020 to this Authority pursuant to the order of Hon'ble Apex Grievance Redressal Committee dated 05.12.2019 in Application No.285 of 2019. The occupant on land CTS No.738/B/1/A of Village - Malad, Taluka - Borivali have formed Respondent No.4 society and they have appointed Respondent No.1 as developer for redevelopment of land in their occupation. Hereinafter the above said Slum Rehabilitation Scheme is referred to and called as "subject SR Scheme". The Applicant herein is the member of Respondent No.4.

According to Applicant, he is carrying business in the name of Swastik Auto Industries and his name is included in Annexure-II at Serial No.186 issued by Competent Authority as eligible for commercial premises. As per Annexure-II the area of structure of Applicant is shown as 149.50 sq. mtrs. and as per clause 5.3 of Appendix-IV of Regulation 33(10) of DCR, 1991 and circular no.70 of Slum Rehabilitation Authority, the eligible commercial slum dweller is entitled to purchase additional area at rate fixed by Chief Executive Officer/SRA after verifying proofs of documents such as MCGM property tax and original CTS plan. It is alleged by Applicant that the Respondent No.1 has created rights, title and interest in respect of subject SR Scheme in favour of Respondent No.2 and 3 without consent of Respondent No.4 society.

The notices were issued to the parties and parties are heard on 09.06.2021 & 16.06.2021. From rival contentions the issue that arises for determination of this Authority is in respect of entitlement of Applicant for additional area admeasuring 1383 sq. ft. as per circular no.70 of SRA.


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It is almost admitted fact that the Applicant is eligible slum dweller & he is entitled for commercial rehab premises. In certified Annexure-II, the area in possession of Applicant is shown as 149.5 sq. mtrs. According to Applicant he is conducting the business in the name & style as Swastik Auto Industries dealing in battery charging and repairing workshop. As per provision of clause 5.3, Appendix – IV of DCR, 1991 the entitlement of Applicant is of 225 sq. ft. carpet area. According to Applicant as per clause 5.3 of Appendix – IV r/w circular no.70 of SRA he is entitled for additional area of 1383 sq. ft.

As against this according to Respondent No.1, they are not in position to submit the amended plans as 80% of the rehab building is completed and 90% work of sale building plinth is also completed and they have already created third party right, title and interest in respect of commercial premises in sale building in subject SR Scheme and there is no commercial premises available for sale.

The circular no.70 of Slum Rehabilitation Authority states that in respect of slum dwellers in tolerated structures the request for additional area can be considered. For tolerated structure it is necessary that commercial structure should be prior to 01.04.1962. The documents produced on record nowhere reveals that the Applicant structure is prior to 1962. The Applicant has also not produced documents on record to hold that his structure is tolerated structure.

It is pertinent to note that the then Chief Executive Officer/SRA through order dated 26.02.2019 has rejected the Applicant's claim on the ground that his structure is not tolerated structure. The record further reveals that the said order was challenged by Applicant in Hon'ble High Court through Writ Petition (L) No.842 of 2019 and the said Writ Petition is withdrawn by the Applicant by accepting the correctness of order dated 26.02.2019. The relevant portion of order of Hon'ble High Court dated 10.04.2019 is as under;


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"1. The learned counsel appearing for the Petitioner states that he is accepting the correctness of the impugned order dated 26.02.2019 and therefore, he may be permitted to withdraw the petition. He submits that remedy of enforcing the said order may be kept open.

2. Accordingly, the Petition is disposed of as withdrawn. Remedy of the petitioner is kept open."

The Applicant has accepted the correctness of order dated 26.02.2019 rejecting his claim for additional area. Moreover, the note of engineering department reveals that construction work of rehab building is almost completed. The developer has alleged that in sale portion he has already created third party interest & no commercial premises is available. So, considering these facts, this Authority is of view that the request of Applicant for additional area cannot be considered. The Application of Applicant is liable to be rejected. Accordingly this Authority proceed to pass following order.

ORDER

The Application of Applicant for additional area is hereby rejected.

Date: 4/8/22
Place: Mumbai

Chief Executive Officer
Slum Rehabilitation Authority

No.: SRA/CEO/SRA/AGRC Direction/Shree Azad CHS/ 42/2022
Date: - 4 AUG 2022

Copy to:

1. Shri. Hemant Jawaharlal Nahata,
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2. M/s. Nirman Realtors and Developers Ltd.
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5. Shree Azad CHS Ltd.
Azad Link Road, Sanjay Nagar,
Pathan Wadi, Rani Sati Road,
Malad (East), Mumbai 400 097.
6. Tahsildar-2/SRA.
7. Dy. Chief Engineer/SRA.
8. Executive Engineer R-N Ward/SRA.
9. Financial Controller/SRA
10. Joint Registrar C.S. (Eastern & Western Suburbs)/SRA
- ✓ 11. Information Technology Officer/SRA.
12. Chief Legal Consultant/SRA.

