

SLUM REHABILITATION AUTHORITY

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

1. Smt. Shantaben Harjibhai Patel,
70/7, Room No.32, 1st Floor,
R.O. Patel Chawl, Rani Sati Marg,
Malad (West), Mumbai - 400 064
2. Mr. Kalpesh Harjibhai Patel,
70/7, Room No.32, 1st Floor,
R.O. Patel Chawl, Rani Sati Marg,
Malad (West), Mumbai - 400 064
3. Mr. Bhavesh Harjibhai Patel,
70/7, Room No.32, 1st Floor,
R.O. Patel Chawl, Rani Sati Marg,
Malad (West), Mumbai - 400 064
4. Mrs. Priti Rashikbhai Patel,
Sahajanand Society, Yogiji Marg,
Mogri Anand, Gujarat - 388 345
5. Mrs. Krishnaben Pareshbhai Patel,
8/A, Anand Dham Society,
Kiran Park, Nava Wadaj,
Ahmedabad, Gujarat - 380 013



... Applicants

V/s.

1. Shah Housecon Pvt. Ltd.
'A' Wing, 1st Floor, Shah Arcade,
Rani Sati Marg, Malad (East),
Mumbai - 400 097
2. Khot Dongri CHS Ltd.
Rani Sati Marg, Khot Dongari,
Malad (East), Mumbai - 400 097

... Respondents

ORDER

(Passed on 26 MAR 2024)

These proceedings are initiated pursuant to the Application of Applicants dated 09.10.2023. Through said Application the Applicants

has requested to de-notify land CTS No.531, admeasuring 425.7 sq. mtrs. of Village Malad, Taluka Borivali from notification u/s 14(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 issued on 19.07.1997 and published in Government Gazette dated 28.07.1997 and corrigendum dated 26.06.1998. The brief facts which lead to present proceedings are as under;

BRIEF FACTS

The slum dwellers residing on plot of land bearing CTS No.521, 521/1 to 8, 521/10 to 17, 522, 522/1 to 11, 523, 524, 524/1 to 12, 525, 525/1 to 4, 527, 527/1 to 26, 528, 528/1 to 11, 529, 529/1 to 15, 530, 530/1 to 16, 531, 532, 532/1 to 13, 533(pt), 533/1 to 100, 533/107 to 484, 533/486 to 643, 533/648, 536, 536/1 to 5, 537, 537/1 to 7, 580, 580/1 to 13, 581A/3B(pt), 581A/3B/1/10 to 33 of Village Malad have formed Respondent No.2 society i.e. Khot Dongari CHS and resolved to redevelop the land in their occupation by implementing the Slum Rehabilitation Scheme. Hereinafter abovesaid SR Scheme is called and referred to as subject SR Scheme. Accordingly the Respondent No.2 society appointed the Respondent No.1 as Developer for redevelopment of land in their occupation by implementing Slum Rehabilitation Scheme. Pursuant to the appointment, the Respondent No.1 submitted proposal of subject SR Scheme to Slum Rehabilitation Authority and the same is duly accepted on 03.08.2005. The certified Annexure-II is issued by Competent Authority on 22.06.2006 for total 1534 slum dwellers out of which 1222 are held eligible. Letter of Intent was issued on 29.11.2005 and the same was revised on 24.09.2014 due to clubbing with SR Scheme of Dadi SRA CHS Ltd. Lastly corrigendum to Letter of Intent was issued on 04.10.2022. The developer has proposed total 8 rehab buildings (Rehab Building No.1 to 5, 7, 8 & 11) and 3 Sale Buildings (Sale Building No.6, 9 & 10) in subject SR Scheme. Intimation of Approval to all the 11 buildings were issued except rehab building no.11 & sale building no.9. Full Commencement Certificate to rehab buildings no.5 & 7 and sale building no.6 were issued during the year 2014 to 2016 and RCC work is under progress. Full Occupation



Certificate to rehab building no.2 to 4 were issued during the year 2012 to 2022. Plinth Commencement Certificate to sale building no.10 was issued on 18.07.2022. Part Occupation Certificate to sale building no.6 was issued on 23.08.2022.

The Applicants has submitted an Application dated 09.10.2023 to this Authority alleging that the Respondent No.1 & 2 has wrongly acquired the land CTS No.531, admeasuring 425.7 sq. mtrs. of Village Malad, Taluka Borivali in subject SR Scheme. Hereinafter the abovesaid land is called and referred to as said land. Pursuant to said application the notice of hearing was issued to Applicants as well as Respondents. The matter was heard on 11.01.2024. On said day Smt. Sangeeta Patel remain present on behalf of Applicants. None for Respondents present. Applicants are heard at length and the matter was closed for order. Directions was given to submit written say within seven days. Accordingly Applicants submitted written submissions. The Respondents failed to submit any say on record.

ARGUMENT OF APPLICANTS

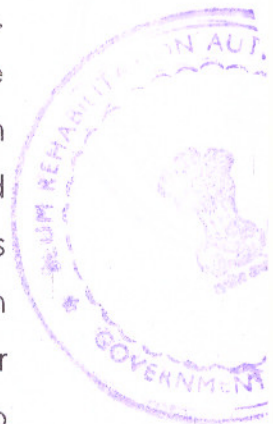
It is the contention of Applicants that the said land bearing CTS No.531 of Village Malad, Taluka Borivali was purchased by their father Shri Harji Raiji Patel through registered Conveyance Deed dated 25.02.1963 from one Babu Vesta with all right, title and interest in said land. Thereafter their father submitted a Building Plan consisting of Gr. + 2 Floors in the year 1963. The MCGM has issued IOD, CC and other necessary permissions to the said Building. The said building is known as "Valibai Building" comprising of total 12 residential tenements.

It is further version of Applicants that they are unaware of the fact that the said land was declared as Slum Area through notification dated 18.03.1978 published in Government Gazette on 06.04.1978. It is further version of Applicants that Mr. Harji R. Patel died intestate on 18.03.1985 leaving behind Applicants as his legal heirs. It is alleged by Applicants that even the existing building is duly approved by the MCGM with sanctioned Plan and Commencement Certificate, though the Government has acquired the said land u/s 14(1) of the

Maharashtra Slum Areas (I, C & R) Act, 1971 through Notification dated 19.07.1997 which is published in Government Gazette dated 28.07.1997 and corrigendum dated 26.06.1998 without giving notices of hearing to them. The compensation amount was not given to them. The Applicants are also not aware of the mutation entry dated 08.04.2002 in the name of Government of Maharashtra in respect of said land.

According to Applicants the slum dwellers residing on adjoining land formed Khot Dongri CHS Ltd. and they appointed M/s. Shah Housecon Pvt. Ltd. as developer. In respect of larger part of land, the two registered Lease Deeds dated 15.05.2009 were executed by Government of Maharashtra in favour of Khot Dongri CHS Ltd. for rehab component and M/s. Shah Housecon Pvt. Ltd. for sale component. In the year 2018 the Applicants came to know that the said land is declared as Slum Area and the same is acquired by the Government for implementing the SR Scheme, so they filed Appeal No.38 of 2021 before the Maharashtra Slum Areas (I, C & R) Tribunal challenging the declaration of Slum Area bearing Notification dated 18.03.1978 which is published in the Government Gazette dated 06.04.1978. The Maharashtra Slum Areas (I, C & R) Tribunal through order dated 27.01.2022 has allowed the said Appeal and set aside the Notification dated 18.03.1978 published in Government Gazette dated 06.04.1978 to the extent of land CTS No.531, admeasuring 425.7 sq. mtrs.

It is further version of Applicants that an Application No.136 of 2019 is also filed before the Hon'ble Apex Grievance Redressal Committee by them challenging the Letter of Intent dated 25.09.2014. In said Application, the Hon'ble Apex Grievance Redressal Committee through interim order dated 08.01.2021 directed the Slum Rehabilitation Authority to stay the effect of Letter of Intent dated 25.09.2014 till further orders. The said interim order dated 08.01.2021 is challenged by M/s. Shah Housecon Pvt. Ltd. in Hon'ble High Court in Writ Petition (L) No.9373 of 2021 and Hon'ble Court through order dated 05.05.2021 has directed M/s. Shah Housecon Pvt. Ltd. to



proceed with the Scheme in accordance with Letter of Intent 25.09.2014 except land CTS No.531, admeasuring 425.7 sq. mtrs. and further directions were given to Apex Grievance Redressal Committee to decide the pending Application expeditiously.

In the meanwhile considering the order of the Hon'ble High Court dated 05.05.2021, the Executive Engineer/SRA through letter dated 25.06.2021 directed the developer to exclude land CTS No.531 from subject SR Scheme. In the light of letter of Executive Engineer dated 25.06.2021 as well as withdrawal letter of Applicants dated 28.06.2021, the said Application No.136 of 2019 is disposed of as withdrawn by Hon'ble Apex Grievance Redressal Committee on 02.07.2021.

It is further version of Applicants that they have also filed Appeal before the District Superintendent of Land Records challenging the Mutation Entry dated 08.04.2002, 18.12.2008 & 12.07.2012. It is contended by Applicants that as on date the said land is de-notified by the Slum Tribunal through order dated 27.01.2022 as well as the said land is also carved out from subject SR Scheme by Executive Engineer/SRA through letter dated 25.06.2021. On these grounds the Applicants has prayed to de-notify land CTS No.531, admeasuring 425.7 sq. mtrs. of Village Malad, Taluka Borivali from notification u/s 14(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 issued on 19.07.1997 and published in Government Gazette dated 28.07.1997 and corrigendum dated 26.06.1998.

ISSUES & DISCUSSION

From facts on record the issue that arises for determination of this Authority is as to whether land CTS No.531, admeasuring 425.7 sq. mtrs. of Village Malad, Taluka Borivali needs to be de-notified from notification u/s 14(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 issued on 19.07.1997 which is published in Government Gazette dated 28.07.1997 and corrigendum dated 26.06.1998.

As stated hereinabove the present proceedings are initiated pursuant to Application of the Applicants dated 09.10.2023 in respect

of land CTS No.531 of Village Malad, Taluka Borivali. The fact sheet of subject SR Scheme reveals that the proposal of Respondents is in respect of land bearing CTS No.521, 521/1 to 8, 521/10 to 17, 522, 522/1 to 11, 523, 524, 524/1 to 12, 525, 525/1 to 4, 527, 527/1 to 26, 528, 528/1 to 11, 529, 529/1 to 15, 530, 530/1 to 16, 531, 532, 532/1 to 13, 533(pt), 533/1 to 100, 533/107 to 484, 533/486 to 643, 533/648, 536, 536/1 to 5, 537, 537/1 to 7, 580, 580/1 to 13, 581A/3B(pt), 581A/3B/1/10 to 33 of Village Malad and Letter of Intent, Intimation of Approval & Commencement Certificate and Occupation Certificate, etc. were issued in favour of Respondents time to time. Till date, the developer has proposed total 8 rehab buildings (Rehab Building No.1 to 5, 7, 8 & 11) and 3 Sale Buildings (Sale Building No.6, 9 & 10) in subject SR Scheme. Full Commencement Certificate to rehab buildings no.5 & 7 and sale building no.6 were issued during the year 2014 to 2016 and RCC work is under process. Full Occupation Certificate to rehab building nos.2 to 4 were issued during the year 2012 to 2022. Plinth Commencement Certificate to sale building no.10 was issued on 18.07.2022. Part Occupation Certificate to sale building no.6 was issued on 23.08.2022.

The record further reveals that land of subject SR Scheme was declared as Slum Area through notification dated 18.03.1978 published in Government Gazette dated 06.04.1978. The record further reveals that the Government has acquired the land of subject SR Scheme u/s 14(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 through Notification dated 19.07.1997 which is published in Government Gazette dated 28.07.1997 and corrigendum dated 26.06.1998. Subsequently mutation entry is recorded in the name of Government of Maharashtra in respect of land of subject SR Scheme on 08.04.2002.

Further in respect of land of subject SR Scheme, the two registered Lease Deeds dated 15.05.2009 are also executed by Government of Maharashtra in favour of Khot Dongri CHS Ltd. for rehab component and M/s. Shah Housecon Pvt. Ltd. for sale component. According to Applicants the said land bearing CTS No.531



was purchased by their father Shri Harji Raiji Patel through registered Conveyance Deed dated 25.02.1963 from one Babu Vesta and thereafter their father submitted a Building Plan consisting of Gr. + 2 Floors in the year 1963. The Applicants has produced copy of registered Conveyance on record. The MCGM has issued IOD, CC and other necessary permissions to the said Building. The said building is known as "Valibai Building" comprising of total 12 residential tenements.

The record further reveals that, the Applicants filed Appeal No.38 of 2021 before the Maharashtra Slum Areas (I, C & R) Tribunal challenging the declaration of Slum Area bearing Notification dated 18.03.1978 which is published in the Government Gazette dated 06.04.1978. The Maharashtra Slum Areas (I, C & R) Tribunal through order dated 27.01.2022 has allowed the said Appeal and set aside the Notification dated 18.03.1978 published in Government Gazette dated 06.04.1978 to the extent of land CTS No.531, admeasuring 425.7 sq. mtrs. The copy of order dated 27.01.2022 is on record.

The record further reveals that, Smt. Sangita Kalpesh Patel & Ors. have taken out the Chamber Summons No.1019 of 2018 in LC Suit No.2427 of 2018 filed by Mr. Neeraj alias Niraj Sharma V/s. MCGM & Anr. before the City Civil Court, Borivali Division, Dindoshi to be joined as party Defendants in the said Sut being the owner of the suit structure. The said Chamber Summons No.1019 of 2018 in LC Suit No.2427 of 2018 came up for hearing on 21.09.2018 before the City Civil Court, Dindoshi. On that day after hearing the arguments of all the sides allowed the said Chamber Summons. In said Chamber Summons, the Hon'ble Court has observed in para 13 of order as under;

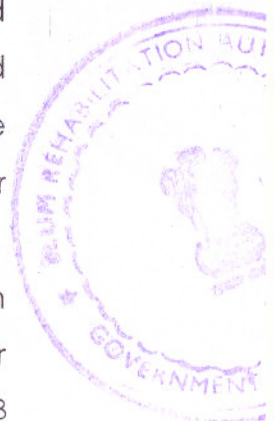
"12. Thus, taking into consideration the submissions of the plaintiff himself that his father was residing in said Building prior to 1988 and that Plaintiff had produced before the MCGM the rent receipts for the year 1978-1979 which are no produced here and observing the ownership of the father of Applicant/Intervener Kalpesh Harjibhai Patel on said property, at this stage, the probability can be seen that rent

receipts may be issued on behalf of Harji Patel or his legal heirs. On these background, if this Exh. C filed with Chamber Summons is looked into, it shows the possibility of truth-ness that said rent receipt is issued by Mr. Kalpesh Patel to Mahavir Sharma on 10.08.1988. Thus prima-facie there is scope to hold that the Plaintiff is the tenant of the Valibhai Building which is owned by the original Mr. H.R. Patel and presently by Mr. Kalpesh Patel etc. This opinion also has the support of Address on receipt, which also mentions address of it as oppsite of Tipco Company Quarry Road, Malad.

13. In addition to this, through it is submission on behalf of the plaintiff before the Court that the Applicants are not the owners of said building, this Court that feels that there is no such express denial in the contentions of the reply to the Chamber Summons or its rejoinder. Even otherwise, aforesaid documents are sufficient to show prima-facie Harji Patel and/or his heirs Kalpesh Patel and Sangeeta Patel as the owners of the said building”

The record further reveals that, Applicants filed an Application No.136 of 2019 before the Hon'ble Apex Grievance Redressal Committee challenging the Letter of Intent dated 25.09.2014. In said Application, the Hon'ble Apex Grievance Redressal Committee through interim order dated 08.01.2021 directed the Slum Rehabilitation Authority to stay the effect of Letter of Intent dated 25.09.2014 till further orders. The said interim order dated 08.01.2021 was challenged by M/s. Shah Housecon Pvt. Ltd. in Hon'ble High Court in Writ Petition (L) No.9373 of 2021 and Hon'ble Court through order dated 05.05.2021 has directed M/s. Shah Housecon Pvt. Ltd. to proceed with the Scheme in accordance with Letter of Intent dated 25.09.2014 except land CTS No.531, admeasuring 425.7 sq. mtrs. and further directions were given to Apex Grievance Redressal Committee to decide the pending Application expeditiously. The copy of order dated 05.05.2021 is on record.

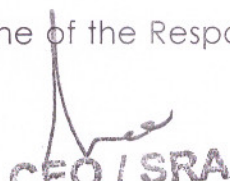
In the meanwhile considering the order of the Hon'ble High Court dated 05.05.2021, the Executive Engineer/SRA through letter



dated 25.06.2021 directed the developer to exclude land CTS No.531 from SR Scheme of Khot Dongri CHS Ltd. In the light of letter of Executive Engineer dated 25.06.2021 as well as withdrawal letter of Applicants dated 28.06.2021, the said Application No.136 of 2019 before the Hon'ble Apex Grievance Redressal Committee is disposed of as withdrawn on 02.07.2021. There is report of Executive Engineer/SRA dated 01.03.2024 on record. In said report the Executive Engineer has stated that the CTS No.531 & 526 have been carved out from slum area and same is not considered in the Letter of Intent of subject SR Scheme. The Executive Engineer has further stated that he has called upon the developer to come forward for revision of Letter of Intent and layout by carving out the said land permanently and failing which no further approvals in subject SR Scheme will be granted.

The record further reveals that the Applicants have also filed Appeal No.81 of 2021 before the District Superintendent of Land Records, challenging the Mutation Entry dated 08.04.2002, 18.12.2008 & 12.07.2012 and the same is pending. The Applicants have enclosed copies of letters dated 20.07.2018 & 04.12.2019 alongwith their Application. The letter dated 20.07.2018 is issued by Deputy Collector (Enc./Rem.), Malad-1 stating that the said land is not declared as Slum Rehabilitation Area u/s 3C of the Maharashtra Slum Areas (I, C & R) Act, 1971. The letter dated 04.12.2019 issued by Deputy Collector (Enc./Rem.), Malad-1 stating that the name of Shri Hirji Raiji Patel is not reflected in Property Card of land CTS No.531 and hence compensation amount is not awarded to him.

The Applicants have produced on record the copies of Municipal Assessment, copy of PR Card, copy of registered Conveyance Deed dated 25.02.1963, copy of IOD, etc. All these documents support the claim of Applicants. From these documents it appears that there is lawfully constructed building on land CTS No.531. Considering the contention of the Applicants and documents, even the Slum Tribunal has de-notified the CTS No.531 from slum declaration. It is pertinent to note that none of the Respondents remain present for



CEO/SRA



hearing. The entire version of Applicants has gone unchallenged. Even the notification issued by Government u/s 14(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 reveals that in said notification the name of owner of CTS No.531 is recorded as somebody else and not of lawful owner. Since the land CTS No.531, admeasuring 425.7 sq. mtrs. is de-notified by Slum Tribunal, the said land is no more Slum Area. The land CTS No.531 alongwith other CTS number is acquired on the basis of slum declaration. The same needs to be de-notified and released from acquisition. There is also letter of Deputy Collector (Enc./Rem.), Malad-1 stating that name of Shri Harji Raiji Patel is not reflected in PR Card and due to it no compensation is awarded to him. The Lease Deed in favour of Respondent No.1 and the mutation in the name of Government has taken place on the basis of acquisition notification.

Considering the facts and circumstances on record, this Authority has come to conclusion that the land CTS No.531, admeasuring 425.7 sq. mtrs. needs to be de-notified and released from acquisition in order to restore the said land to lawful owner in revenue record. Accordingly following order is passed.

ORDER

1. The Application is allowed as under;

A report be forwarded to Government to de-notify the CTS No.531, admeasuring 425.7 sq. mtrs. from notification u/s 14(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 issued on 19.07.1997 and published in Government Gazette dated 28.07.1997 and corrigendum dated 26.06.1998.

Date: 6 MAR 2024

Place: Mumbai

Chief Executive Officer
Slum Rehabilitation Authority

No.: SRA/CEO/Acquisition/Khot Dongri CHS/ 19 /2024

Date: 6 MAR 2024

Copy to:



1. Smt. Shantaben Harjibhai Patel,
70/7, Room No.32, 1st Floor,
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7. Khot Dongri CHS Ltd.
Rani Sati Marg, Khot Dongari,
Malad (East), Mumbai - 400 097
8. Deputy Collector (Special Cell)/SRA.
9. Dy. Chief Engineer/SRA.
10. Executive Engineer (P/N Ward)/SRA.
11. Financial Controller/SRA
12. Joint Registrar C.S. (Eastern Suburbs)/SRA
- ✓ 13. Information Technology Officer/SRA.
14. Chief Legal Consultant/SRA.

