



## SLUM REHABILITATION AUTHORITY

BEFORE THE CHIEF-EXECUTIVE OFFICER,  
SLUM REHABILITATION AUTHORITY

1. Secretary/Chairman  
Juhu Taj SRA CHS Ltd.  
10<sup>th</sup> Road, Juhu, Vile Parle (W)  
Mumbai- 400056
2. Parshuram Patil, the Chief Promoter  
Shri. Om Sai CHS (Prop.)  
10<sup>th</sup> Road, Juhu,  
Vile Parle (W), Mumbai- 400056



... Applicants

V/s

Shailesh Mulchand Savla  
Sole Proprietor of M/s. Kunal Builders & Developers  
A-7, 6<sup>th</sup> Floor, Manibhavan,  
45, Swastik Society, N.S. Road No.3  
JVPD Scheme, Vile Parle (W),  
Mumbai- 400056

... Respondent

### ORDER

(Passed on - 02/02/2019 )

The proceeding u/s 13 (2) of the Maharashtra Slum Areas (I,C&R) Act, Act, 1971 is initiated pursuant to the representation of the Applicants i.e. Juhu Taj SRA CHS Ltd & Shree Om Sai CHS (Prop.) dated 01.09.2018 for termination of appointment of Respondent i.e. M/s. Kunal Builders & Developer on the grounds of delay and latches caused in implementation of S.R. Scheme on plot of land bearing C.T.S. No.35 of Village Juhu at Vile Parle (West), Mumbai Hereinafter the above said S.R. Scheme is referred to as "subject SR Scheme".

### FACTS IN BRIEF

Occupants on plot of land bearing CTS No.35 of Village- Juhu, was encroached upon by various slum dwellers. The said land was

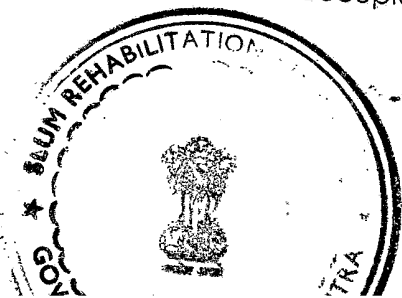
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owned by MHADA. The slum dwellers on the said land formed proposed society known as Juhu Taj (SRA) CHS Limited i.e. Applicant No.1 and appointed M/s. Kunal Builders and Developers, the Respondent as Developer. The scheme for slum rehabilitation was submitted in respect of the land admeasuring 6277.50 sq. meters on 23.11.2000 and Annexure-II was issued by MHADA on 11.01.2001 certifying 121 slum dwellers as eligible in the slum scheme. The LOI was issued on 30.07.2002. The permission to construct temporary transit camp was granted on 26.09.2003 and 08.04.2004. The revised LOI was issued 20.05.2004, for 141 slum dwellers. The building plans for rehab building was approved for ground + six upper floors and Commencement Certificate up to Plinth level was issued on 7<sup>th</sup> June 2004. Further Commencement Certificate for rehab building was extended up to sixth (part) floor on 9<sup>th</sup> September 2004. The Respondent has applied for amalgamating the said slum scheme with the adjoining land owned by MCGM known as Nalla land admeasuring 2319.84 square meters for Shree Om Sai CHS Limited and accordingly revised LOI was issued on 30.12.2004 for 168 number of slum dwellers. The plan for sale building comprises of Ground + Seven upper floors was approved on 13.09.2004 and Commencement Certificate up to plinth level was issued on 07.01.2005. During the site inspection of SRA it was observed that the Respondent has illegally completed Eight floors of the rehab building beyond approval and the same were duly occupied by the slum dwellers without Occupation Certificate. Construction of sale building comprises of basement + stilt + Eight upper floors done by Respondent beyond approvals which was only upto to plinth level. Therefore the SRA has issued notice u/s. 53(1) of MRTP Act 1996 on 23.12.2005 directing to demolish the work carried out beyond the Commencement Certificate and beyond the approval plans of rehab and sale building. Another notice was also sent on



01.06. 2006 in respect of Rehab Building. The SRA vide its letter dated 08.12.2005 issued stop work notice to stop all construction activities on the site and even the Government of Maharashtra has also issued order of stay to the scheme. Lot of irregularities in allotment of tenements under the scheme and the enquiry was conducted by the Police and it was revealed that many persons who were not at all connected with the Scheme were allotted residential rooms/shops on the basis of forged documents and F.I.R. was registered by EOW on 31.10.2006. The charge sheet is filed and the case is pending in the Court. Several litigations have taken place in respect of the said slum scheme and therefore further approval to the slum scheme are not granted by Slum Rehabilitation Authority.

The Architect of Respondent vide its letter dated 26.11.2014 communicated to SRA that the Respondent has entered into an agreement with M/s. Chintan Lifespaces and requested to issue further approvals in the name of M/s. Chintan Lifespaces. However the Respondent vide its letter dated 17.11.2017 informed to SRA that he has terminated the agreement with M/s. Chintan Lifespaces, also vide their letters dated 15.11.2015 and 25.01.2017 requested SRA to grant permissions in its name to complete the scheme. The SRA vide its letter dated 26.05.2014 and 08.01.2014 called upon the Respondent and its Architect to comply with all the conditions of LOI, IOA, C.C. & to apply for O.C. in respect of the rehab building. The Architect of the Respondent vide its letter dated 30.06.2014 informed that they are complying with all the terms and conditions and requested for further time. The site inspection was carried out by Assistant Registrar Co-Op Societies/SRA and reported vide letter dated 05.02.2018 it was revealed that in A & B wing of Rehab Building 43 tenements have been sold, 19 tenements are occupied by outsiders 10 tenements are



occupied by relatives of the slum dwellers & 30 tenements are let out to the tenants by the original slum dwellers.

However neither the Sale Building nor the Rehabilitation Building is complete. Therefore, the Applicants societies passed Resolution in the meeting convened on 25.08.2018 and terminated the appointment of Respondent as their developer for implementation of subject S.R. Scheme. Thereafter the Applicants filed the applications under section 13(2) of the Maharashtra Slum Areas (I.C&R), Act, 1971 dated 01.09.2018, requesting the CEO/SRA to initiate action against Respondent developer on the ground of inordinate delay caused in and irregularities implementation of subject S. R. Scheme. Pursuant to the said representations, notice was issued by the SRA to the Applicants and Respondent calling upon them to remain present for hearing on 28.09.2018. In this regards M/s. Chintan Lifespaces also filed Commercial Suit (L) No.756 of 2017. The SRA is party to the said Suit.

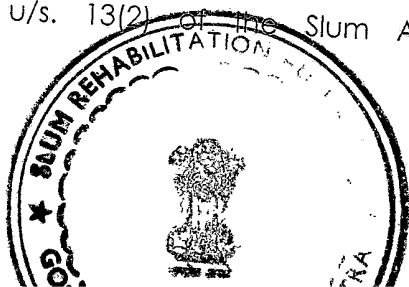
Hearing was fixed before the CEO/SRA on 10.10.2018.

**HEARING:**

After hearing both the parties, the Applicant No.1 has submitted the Application dated 27.09.2018 for adding M/s. Chintan Lifespaces as party Respondent. The Respondent have filed their reply to the said Intervention Application on 26.10.2018. Thereafter the hearing is kept on 13.11.2018. Heard the arguments of all the sides in respect of Application of Juhu Taj CHS for impleading the M/s. Chintan Lifespace LLP as party. The matter was reserved for order on 13.11.2018 for impleading M/s. Chintan Lifespaces LLP.

**APPLICATION OF APPLICANT NO.1 SOCIETY VIZ. JUHU TAJ SRA CHS LTD.**

Applicant No.1 Society pleaded by submission dated 27.09.2018 u/s. 13(2) of the Slum Act seeking interalia to terminate the



appointment of M/s. Kunal Builders & Developers as the Developer for its SRA project and to apply for the appointment of Chintan Lifespaces LLP as the Developer of the said SR Scheme. The present Application is to implead Chintan Lifespace LLP as a Respondent in the Application.

Applicant No.1 Society further stated that Chintan Lifespace LLP is a necessary party to the Application due to following reasons:

1. On 30.04.2013, the Respondent entered into duly registered Deed of Transfer cum Assignment of Development Rights with Chintan Lifespace LLP whereby the Respondent has transferred and assigned the entire free sale component of the SRA project for a consideration of Rs.117,09,00,000/-. The Respondent has admittedly received Rs.101,51,24,000/- from the Chintan Lifespace LLP.
2. On 30.04.2013, the Respondent executed an Irrevocable General Power of Attorney in favour of the partners of the Chintan Lifespace LLP. Thereafter on 09.07.2014, the Respondent executed a second Irrevocable General Power of Attorney in favour of inter alia, Mr. Chintan Vora, Partner of the Chintan Lifespace LLP. Both these Power of Attorney are duly registered.
3. On 26.11.2014, the Respondent's Architect i.e. Vivek Bhole Architect Pvt. Ltd. submitted the Deed of Assignment and the Irrevocable Power of Attorney to SRA and also requested the SRA to consider permitting the Chintan Lifespace LLP to complete the said SR Scheme.
4. On 15.01.2015, Chintan Lifespace LLP wrote a letter to SRA informing that Chintan Lifespace LLP had taken over the project under the Deed of Assignment read with two irrevocable General Power of Attorney and also stated that Chintan



Lifespace LLP would like to start and complete the project which has been stalled for a long time and requesting SRA to grant permissions for the same.

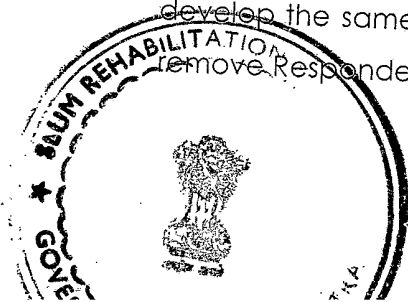
5. The Chintan Lifespace LLP filed an Application dated 25.01.2017 with the SRA for recognition as Developer for the SRA project and further stated that he is ready and willing to complete the project.
6. In General Body Resolution dated 25.08.2018 resolution was passed for removal of respondent as Developer and to appoint Chintan Lifespace LLP in their place.

The Applicant No.1 stated that Chintan Lifespace LLP is necessary for the complete and effectual adjudication of the Application. As this Application cannot be effectively decided without Chintan Lifespace LLP. The Applicant further stated that no prejudice will be caused to the Respondent if Chintan Lifespace LLP is made party to the Application nor will change the nature of Application.

The Applicant therefore pray u/s 13(2) of the Slum Act before this Authority to all the present Application and to implead Chintan Lifespace LLP as Respondent.

#### **ARGUMENT OF RESPONDENT VIZ. M/S. KUNAL BUILDERS & DEVELOPERS**

The Respondent Developer in his Reply dated 26.10.2018 stated the Applicant No.1 Society in their Application agreed that Respondent Developer has entered into Deed of Transfer/Assignment of Development Rights in respect of Sale Component as per Deed of Assignment. The Society of Slum dwellers have no right, title and interest in Sale Component and it is Developer right as to how to develop the same and sell. Since the Applicant No.1 Society wants to remove Respondent Developer as their Developer in respect of present



SR Scheme then there cannot be admission of Chintan Lifespace LLP to present Application as the name of Chintan Lifespace LLP is on record of SRA and all the permissions/ sanctions granted by SRA are in the name of present Respondent Developer.

The Respondent Developer stated the present SR Scheme is already completed and Rehab Tenements are constructed as per LOI which is for 245 rehab tenements, including 42 PAP tenements. The Respondent Developer further stated that once Rehab Component is completed in present SR Scheme then there is no necessity to transfer said SR Scheme to Chintan Lifespace LLP.

The Respondent Developer stated that slum dwellers cannot decide how the Sale Component is to be developed. The right of the slum dwellers is only to seek allotment of Rehab Tenements and they cannot decide which Society or which Developer should implement the said SR Scheme. The Respondent Developer further stated that once all the members of Society who have admitted that they have taken over Rehab Tenements and they are residing in Rehab Tenements then there is no question either to implead Chintan Lifespace LLP, who has purchased rights of Sale Components.

The Respondent Developer stated that slum dwellers Society is no way concern with Sale Component and therefore Application of M/s. Chintan Lifespace LLP for implement of party Respondent deserves to be rejected.

**DISCUSSIONS:-**

It is apparent that the Applicant society i.e. Juhu Taj SRA CHS Ltd. wants that Chintan Lifespace LLP to be impleaded as one of the party to this proceedings on the basis of financial and commercial Agreement between the Respondent and the said company. It is also



apparent that the society as well as the Chintan Lifespace LLP are also in an Agreement in respect of taking the Scheme further. However this arrangement between Chintan Lifespace LLP and the society as well as between the Respondent and Chintan Lifespace LLP have not been duly brought on record of SRA.

However considering the peculiar facts and circumstances of the present case even if Chintan Lifespace LLP is allowed to place on record all the facts and circumstances concerned in the implementation of the scheme, will not prejudice the rights of any of the parties. However, the said Chintan Lifespace LLP will not be allowed to make any prayer in this matter. The appearance of said Chintan Lifespace LLP will be limited to the facts necessary for the decision of the Application u/s. 13(2) of the Slum Act.

**ORDER**

1. The Application dated 27.09.2018 for addition of Chintan Lifespace LLP as partly Respondent is allowed.
2. However, Chintan Lifespace LLP shall not raised any issue which is connected with the Commercial Suit (L) No.756 of 2017 pending before the Hon'ble High Court.

Date: 02/02/2019

Place: Mumbai

  
Chief Executive Officer  
Slum Rehabilitation Authority

No.: SRA / CGO Hearing Chintan Lifespace LLP / 7 / 2019 / 00 / 6275  
Date: 2 FEB 2019

Copy to:

- 1 Secretary/Chairman  
Juhu Taj SRA CHS Ltd.  
10<sup>th</sup> Road, Juhu; Vile Parle (W)  
Mumbai- 400056





2. Parshuram Patil, the Chief Promoter  
Shri. Om Sai CHS (Prop.)  
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3. Shailesh Mulchand Savla  
Sole Proprietor of M/s. Kunal Builders & Developers  
A-7, 6<sup>th</sup> Floor, Manibhavan,  
45, Swastik Society, N.S. Road No.3  
JVPD Scheme, Vile Parle (W), Mumbai- 400056
4. Chintan Lifepaces LLP,  
303, Shreeji Darshan, Tata Road No.2,  
Opera House, Girgaon, Mumbai 400 004
5. Dy. Collector (W.S.)/SRA.
6. Dy. Chief Engineer-I/SRA.
7. Executive Engineer (W.S.) K/W Ward/SRA.
8. Financial Controller/SRA
9. Joint Registrar C.S. (Eastern & Western Suburbs)/SRA
10. Information Technology Officer/SRA.
11. Chief Legal Consultant/SRA.

