



SLUM REHABILITATION AUTHORITY

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

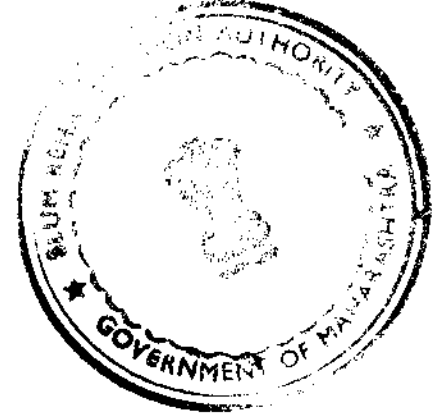
File No.PS/PVT/0091/20210820/LOI

M/s. Shree Developers,
E/220, Dheraj Savera,
Borivali (East), Mumbai - 400 066.

... Complainant

V/s

1. Alchemi Developers Private Limited
3rd Floor, 173/174, Sejal Encassa,
S.V. Road, Kandivali (West),
Mumbai - 400 067
2. M/s. Ellora Project Consultants Pvt. Ltd.
317-321, Ninad CHS. Kher Nagar,
Service Road, Bandra (East),
Mumbai - 400 051
3. New Shivaji Nagar SRA CHS (Prop.),
Haji Mohammed Sharif SRA CHS (Prop.),
Vijay Bhagyalaxmi SRA CHS (Prop.),
CTS No. 610A/1A/1A(pt) 612(pt), 613(pt),
614, 615, 616, 617 & 699(pt) of Village Malad (East),
Taluka Borivali, Gokuldharm,
Gen. Arunkumar Vaidya Marg,
Goregaon (East), Mumbai - 400 063



... Respondents

ORDER

(Passed on 15/07/2021)

The present proceedings are initiated by this Authority pursuant to complaint submitted by complainant dated 14.07.2023 in respect of SR Scheme on plot of land bearing CTS No 610A/1A/1A(pt), 612, 613, 614, 615, 616, 617, 618, 620A/1A/1(Pt), 620A/3(pt), 620A/2/2(pt) & 699(pt) of Village Malad (East), Taluka Borivali for "New Shivaji Nagar SRA CHS (Prop.), Haji Mohammed Sharif SRA CHS (Prop.), Vijay Bhagyalaxmi SRA CHS (Prop.) & Shree

CEO / SRA

Jade Baslingeshwar Swami SRA CHS (Prop.)". Hereinafter the above said Slum Rehabilitation Scheme is referred to and called as "subject SR Scheme". In brief the facts which lead to present proceedings are as under;

BRIEF FACTS

From record it appears that the occupants on plot of land bearing CTS No.610A/1A/1A(pt), 612, 613, 614, 615, 616, 617, 618, 620A/1A/1(Pt), 620A/3(pt), 620A/2/2(pt) & 699(pt) of Village Malad (East), Taluka Borivali have formed "New Shivaji Nagar SRA CHS (Prop.), Haji Mohammed Sharif SRA CHS (Prop.), Vijay Bhagyalaxmi SRA CHS (Prop.) & Shree Jade Baslingeshwar Swami SRA CHS (Prop.)" and appointed Respondent No.1 as their developer and Respondent No.2 as Architect for implementation of the subject SR Scheme. Pursuant to the appointment, the Respondent No.1 has submitted proposal of subject SR Scheme as per circular no.144 to Slum Rehabilitation Authority and the same is duly accepted on 20.08.2021. The Letter of Intent for subject SR Scheme is issued on 27.01.2023 & 07.02.2023 and the same is revised on 08.01.2024. Intimation of Approval & plinth Commencement Certificate to composite building is issued on 24.01.2024.

The Complainant has submitted a complaint dated 14.07.2023 to this Authority raising objection to proposal of subject SR Scheme submitted by Respondent No.1. According to Complainant land admeasuring 7 Acre, 31 Gunthas bearing Survey No.266 of Malad (East) stands in the name of Government of Maharashtra as per PR Card. The proposal of subject SR Scheme is submitted by Respondent No.1 in collusion with few individuals who are either the beneficiaries in other Schemes or owns private houses. It is further version of Complainant that during the year 2020 and 2021 there was nationwide Lockdown and the developers in Mumbai were allowed to conduct General Body Meeting in small groups. However the Respondent No.1 suppressing the said facts conducted the General Body Meeting of entire slum dwellers by giving assurances

✓ SRA



that they will give additional carpet area and monetary considerations to them. Further the Respondent No.1 allowed to construct temporary structures on site in order to increase total tenement density.

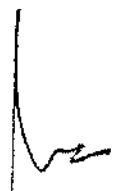
According to Complainant in order to acquire the private lands u/s 14(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971, the bogus society is formed by ignoring registered society i.e. Shree Jade Baslingeshwar Swami CHS (Prop.) and they filed Writ Petition (L) No.34867 of 2022 in Hon'ble High Court and got the directions of Hon'ble Court to initiate acquisition process. It is further version of Complainant that the Respondent No.1 has obtained the Letter of Intent of Haji Mohammed Sharif SRA CHS (Prop.) though there is status quo order of Hon'ble High Court in Suit (L) No. 254 of 2018. It is contended by Complainant that the Letter of Intent was issued to subject SR Scheme without issuance of Annexure-II.

According to Complainant the Respondent No.1 has illegally executed registered Conveyance Deed dated 31.03.2021 by and between Vijay Bhagyalaxmi CHS Ltd. and members of Vijay Bhagyalaxmi CHS (Prop.), though the elections of said proposed society were not conducted since last 15 years. On these grounds the Complainant has raised objection to subject SR Scheme.

Pursuant to said complaint of complainant, the Executive Engineer/SRA has submitted a note to this Authority and accordingly notices for hearing were issued to concerned parties.

HEARING

The parties are heard on various dates. On 15.02.2024 Advocate K.C. Tripathi appeared on behalf of Complainant. Adv. Pradep Thorat appeared on behalf of Respondent No.1. Adv. Milind Nar appeared on behalf of Respondent No.3 societies. Parties were heard at length and matter was closed for order. Directions were given to parties to submit their written submission within 15 days.

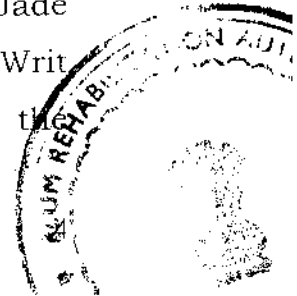

CEO / SRA

ARGUMENT OF COMPLAINANT

As stated hereinabove the Complainant has raised several issues in respect of subject SR Scheme. According to Complainant they are holding development rights in respect of plot of land bearing Survey No.266 corresponding CTS No.610(pt), 612, 613, 614, 615, 616, 617 & 699, admeasuring 7 Acres 31 Gunthas and they came to know about the submission of proposal of subject SR Scheme by Respondent No.1 on said land. The said plot of land stands in the name of Government of Maharashtra and same is declared as Slum in the year 1987. According to Complainant they have already applied for development of the said plot under SR Scheme with the consent of occupants. It is alleged by the Complainant that the proposal submitted by Respondent No.1 on behalf of Respondent No.3 societies is in collusion with few individuals who are either the beneficiaries in other Schemes or owns private houses.

According to Complainant they have filed Suit No.484 of 2011 in City Civil Court at Dindoshi against State of Maharashtra, MCGM & SRA for seeking injunction from Hon'ble Court from issuing any permission and demolition of the unauthorized construction and the same is pending. It is further version of Complainant that during the year 2020 and 2021 there was nationwide Lockdown and the developers in Mumbai were allowed to conduct General Body Meeting in small groups. However the Respondent No.1 suppressing the said facts conducted the General Body Meeting of entire slum dwellers by giving assurances that they will give additional carpet area and monetary considerations to them. Further the Respondent No.1 allowed to construct temporary structures on site in order to increase total tenement density.

According to Complainant in order to acquire the private lands u/s 14(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971, the bogus society is formed by ignoring registered society i.e. Shree Jade Baslingeshwar Swami CHS (Prop.) and Respondent No.1 filed Writ Petition (L) No.34867 of 2022 in Hon'ble High Court and got the



directions of Hon'ble Court to initiate acquisition process. It is further version of Complainant that the Respondent No.1 has obtained the Letter of Intent of Haji Mohammed Sharif SRA CHS (Prop.) though there is status quo order of Hon'ble High Court in Suit (L) No. 254 of 2018. It is contended by Complainant that the Letter of Intent was issued to subject SR Scheme without issuance of Annexure-II. On these grounds the Complainant has raised objection to subject SR Scheme.

ARGUMENT OF RESPONDENT NO.1 & 3

Though the Respondent No.1 & 3 have submitted their separate written submissions on record, the sum and substance of their arguments are almost identical. According to Respondents they are implementing the subject SR Scheme as per Circular No.144 of Slum Rehabilitation Authority. It is further version of Respondents that the complainant has filed Suit No.1149 of 2021 in City Civil Court for specific performance of alleged Agreements referred therein. The Complainant has moved the Notice of Motion in said Suit and sought injunction order from City Civil Court against Respondent No 1 to restrain Respondent No.1 from proceeding further in subject SR Scheme. The City Civil Court through order dated 06.07.2021 rejected the said Notice of Motion. The order of City Civil Court reveals that the complainant has neither submitted a Scheme nor they are the owner of said land. According to Respondents the complainant has no locus to raise objection to subject SR Scheme. It is a settled law that once a proposal is submitted, no new proposal for the same plot of land can be entertained without taking the same to its logical end.

According to Respondents, this Authority has no jurisdiction to quash and set aside the Letter of Intent and to entertain the present complaint as per provisions of the Maharashtra Slum Area (I, C & R) Act, 1971. The complaint is filed by the Complainant without any documentary proof. So far as the issue of eligibility of some of the slum dwellers is concerned, the Respondents submitted that the

CEO/SRA



eligibility of slum dwellers will be decided by the Competent Authority after following due process of law and eligible slum dwellers will be rehabilitated in rehab tenements on the basis of their eligibility. According to Respondents, the proposal of subject SR Scheme is duly accepted by this Authority after following due process of law. So far as the status quo order of Hon'ble High Court in Suit (L) No.254 of 2018 is concerned, the Respondents submitted that they are not aware of the said Suit nor they are party to said Suit and hence status quo order is not applicable to them.

According to Respondents, the validity of General Body Resolution was verified and confirmed by the five departments of Slum Rehabilitation Authority and NOC's were also issued to subject SR Scheme. It is further version of Respondents that, as per prevailing rules, circular of this Authority and provisions of DCPR, 2034, the Letter of Intent, layout, Intimation of Approval can be issued without waiting for certified Annexure-II and therefore Letter of Intent is in consonance with DCPR, 2034. On these grounds the Respondents have prayed to reject the complaint filed by complainant.

ISSUES & DISCUSSION

From rival contentions the issue that arises for determination of this Authority is as to whether the complaint of Complainant is maintainable.

As stated hercinabove the present proceedings are initiated pursuant to complaint of the complainant dated 14.07.2023 in respect of SR Scheme on plot of land bearing CTS No.610A/1A/1A(pt), 612, 613, 614, 615, 616, 617, 618, 620A/1A/1(Pt), 620A/3(pt), 620A/2/2(pt) & 699(pt) of Village Malad (East), Taluka Borivali for "New Shivaji Nagar SRA CHS (Prop.), Haji Mohammed Sharif SRA CHS (Prop.), Vijay Bhagyalaxmi SRA CHS (Prop.) & Shree Jade Baslingeshwar Swami SRA CHS (Prop.)". The claim of Complainant is that the Respondent No.1 has submitted incomplete proposal of subject SR Scheme. According to


CEO / SRA



Complainant they are holding development rights in respect of plot of land bearing Survey No.266 corresponding CTS No.610(pt), 612, 613, 614, 615, 616, 617 & 699, admeasuring 7 Acres 31 Gunthas.

In written submission submitted by Respondent No.1 on 17.08.2023 they have pleaded that a Complainant has filed Suit No.1149 of 2021 in City Civil Court, Dindoshi for specific performance of alleged Agreements referred therein. The Complainant has moved the Notice of Motion in said Suit and sought injunction against Respondent No.1 to restrain to proceeding further in subject SR Scheme. The City Civil Court through order dated 06.07.2021 rejected the said Notice of Motion. According to Respondent No.1, the order of City Civil Court reveals that the complainant has neither submitted a Scheme nor they are the owner of said land.

The another contention of the Complainant is that, the proposal of subject SR Scheme is submitted by Respondent No.1 on behalf of Respondent No.3 societies in collusion with few individuals who are either the beneficiaries in other Schemes or owns private houses. In this regard the Respondents have submitted that the eligibility of slum dwellers will be determined by the Competent Authority after following due process of law and eligible slum dwellers will be rehabilitated in rehab tenements on the basis of their eligibility.

According to Complainant they have filed Suit No.484 of 2011 in City Civil Court at Dindoshi against Government of Maharashtra, MCGM & SRA for seeking injunction from Hon'ble Court from issuing any permission and demolition of the unauthorized construction and the same is pending. The record reveals that Complainant has filed Suit No.484 of 2011 in City Civil Court, Dindoshi. From copy of Complaint of said Suit it appears that the Complainant has prayed for relief to restrain this Authority from issuing any permission in respect of said land. The official website of City Civil Court, Dindoshi



CEO / SRA

reveals that the said Suit is at the stage of Notice of Motion for Reply rejoinder and next date is 01.07.2024.

It is further version of Complainant that the Respondent No.1 has obtained the Letter of Intent of Haji Mohammed Sharif SRA CHS (Prop.) though there is status quo order of Hon'ble High Court in Suit (L) No. 254 of 2018. The official website of Hon'ble High Court reveals that in said Suit the Hon'ble Court through order dated 26.02.2018 has directed parties to said Suit to maintain status quo in respect of land CTS No.699(pt), admeasuring 5000 sq. ft. The Slum Rehabilitation Authority is not party to said Suit and the said Suit is pending at admission stage. The LOI report reveals that the land CTS No.699(Pt) is owned by State Government. The dispute in Hon'ble High Court appears to be in between Kamla Marya Bari & Ors. V/s. Uday Shankar Shukla & Ors.

So far as the issue raised by Complainant in respect of conducting General Body Resolution during the Covid-19 pandemic is concern, the said issue is irrelevant at this stage as the proposal of the subject SR Scheme is duly accepted by this Authority after obtaining remarks of the concerned department of SRA as per circular no.144 of SRA. Further the Complainant has alleged that Respondent No.1 has allowed to construct temporary structures on site in order to increase total tenement density. In this regard it is pertinent to note that if the slum dwellers found to be eligible, then only the slum dwellers will get their respective tenements and if in any event the slum dwellers declared as ineligible, then the said tenement will be used as PAP tenement by the SRA. In both the situation the Respondent No.1 will not be benefited with the increase or decrease in the tenement density. Pursuant to directions of Hon'ble High Court dated 20.10.2022 in Writ Petition (L) No.25792 of, 2023 this Authority heard the matter. Through order dated 14.12.2023, this Authority has directed to process further the proposal submitted by Jade Baslingeshwar Swami SRA CHS (Prop.) as per rules, regulations and policy of Slum Rehabilitation Authority.

✓
REG / SRA



It is pertinent to note that the circular no.167 of Slum Rehabilitation Authority states that once Scheme is duly accepted and approvals are granted the same shall not be stayed on account of complaint in respect of title etc. unless there is injunction or stay of Competent Court. In the absence of any order, injunction or stay of Hon'ble Court it will not be just and proper to entertain the complaint of complainant.

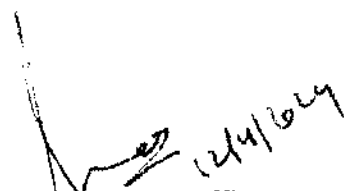
Considering all these facts and circumstances this Authority is of opinion that the Complaint of Complainant is liable to be rejected. Accordingly this Authority proceed to pass following order.

ORDER

The complaint of M/s. Shree Developers dated 14.07.2023 is hereby rejected.

Date:

Place: Mumbai


Chief Executive Officer
Slum Rehabilitation Authority

No.: SRA/CEO/Complaint/New Shivaji nagar & 2 Ors./ 3 / 2024

Date: 14/07/2024

Copy to:

1. M/s. Shree Developers,
E/220, Dheraj Savera,
Borivali (East), Mumbai - 400 066.
2. Alchemi Developers Private Limited
3rd Floor, 173/174, Sejal Encassa,
S.V. Road, Kandivali (West), Mumbai - 400 067
3. M/s. Ellora Project Consultants Pvt. Ltd.
317-321, Ninad CHS, Kher Nagar,
Service Road, Bandra (East), Mumbai - 400 051
4. New Shivaji Nagar SRA CHS (Prop.),
Haji Mohammed Sharif SRA CHS (Prop.),
Vijay Bhagyalaxmi SRA CHS (Prop.),
CTS No. 610A/1A/1A(pt) 612(pt), 613(pt),
614, 615, 616, 617 & 699(pt) of Village Malad (East),
Taluka Borivali, Gokuldham, Gen. Arunkumar Vaidya Marg,
Goregaon (East), Mumbai - 400 063
5. Deputy Collector (Special Cell)/SRA
6. Dy. Chief Engineer/SRA
7. Executive Engineer P/S Ward/SRA

8. Financial Controller/SRA
9. Joint Registrar C.S. (Western Suburbs)/SRA
- ✓ 10. Information Technology Officer/SRA
11. Chief Legal Consultant/SRA

