



SLUM REHABILITATION AUTHORITY

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

No. SRA/ENG/2640/KE/PL/LOI

1. Mrs. Shilpa S. Salvi,  
Room No.110, Joshi Niwas,  
Veer Nilesh Sawant Marg,  
Bandrekarwadi, Jogeshwari (East),  
Mumbai - 400 060
2. Utkarsha Rahivasi Mandal,  
Chawl No.3 & 4, Vijay Nagar,  
Bandrekarwadi, Jogeshwari (East),  
Mumbai - 400 060.

... Applicants

V/s

1. M/s. Vardhaman Infrastructure,  
Shop No.8, Royal Garden,  
Opp. Hyundai Showroom,  
S.V. Road, Amboli, Jogeshwari (West),  
Mumbai - 400 102.  
Shop No.10, Gayatri Darshan,  
Thakur Complex, Kandivali (East),  
Mumbai - 400 101
2. Jogeshwari Mata SRA CHS (Prop.),  
CTS No.49(pt), 49/499 to 518,  
49/587 to 599 of Village Majas,  
Jogeshwari (East), Mumbai - 400 060.

... Respondents

Sub. : Representations dated 31.05.2021 & 17.02.2022 of Applicants  
Mrs. Shilpa S. Salvi & Utkarsha Rahivasi Mandal respectively.

**ORDER**

(Passed on 21.11.2022)

These proceedings are initiated pursuant to order of the  
Hon'ble High Court dated 12.09.2022 in Writ Petition (L) No.23799 of

2022. Through said order the Hon'ble High Court has directed this Authority to decide the representations dated 31.05.2021 & 17.02.2022, of Applicants i.e. Mrs. Shilpa S. Salvi & Utkarsha Rahivasi Mandal respectively in accordance with law, expeditiously and preferably within four months. Pursuant to said directions notices were issued to all the parties. The brief facts are as under:

**BRIEF FACTS:**

The Applicants have submitted representations dated 31.05.2021 & 17.02.2022 respectively to this Authority alleging that the Respondent No.1 while implementing the subject SR Scheme has encroached their pathway due to which their access to main road is reduced. According to Applicants, the Utkarsha Rahivasi Mandal includes Ramji Patel Chawl, Baban Pujari Chawl, Omprakash Chawl and other Chawls situated on land CTS No.49, 45 & 48 and on boundaries of CTS No.49(pt) there is about 10 to 12 feet vahiwati pathway in regular use of these Chawls. According to Applicants the said vahiwati pathway is encroached by Respondent No.1 in violation of terms and conditions of the Letter of Intent dated 03.07.2013 and now same is reduced to about 3 feet by constructing the compound wall. The said pathway is vahiwati pathway. In case of fire or emergency the Fire Tenders, Ambulance can pass through said pathway. Though the pathway is not the part of Slum Rehabilitation Scheme of Respondent No.2 society, the Respondent No.1 has illegally encroached on said pathway and constructed a wall reducing the width of pathway to 3 feet.

It is further version of Applicants that the Applicant No.2 also approached Ex. Union Minister, Shri Gurudas Kamat who in turn addressed their grievance to this Authority upon which this Authority issued notice to Respondent No.1 on 25.06.2018 and explanation were called from Respondent No.1 & their Architect. However upon

issuing notices the Respondent No.1 stopped his illegal encroachment upon the pathway. Since the Applicant No.2 noticed that Respondent No.1 again started illegal encroachment on road/vahivat which is in use of public and Chawl occupants, they approached the social worker from their area namely Mrs. Shilpa Santosh Salvi, the Applicant No.1 for redressal of their grievance. Accordingly the Applicant No.1 has submitted a representation dated 31.05.2022 to this Authority pointing out that the Respondent No.1 is encroaching the pathway which is in use of its members since last 40 years and due to said encroachment the Applicant No.2 is facing several difficulties as the said pathway is the only way for their regular use and amenities.

According to Applicants, despite series of notices issued by this Authority, the Respondent No.1 continued its illegal action and also not removing the illegal encroachment/construction. It is contended by the Applicants that even the Respondent No.1 has encroached upon some portion of the public road which belongs to the MCGM, therefore the Applicant No.2 has also filed representation dated 17.02.2022 to the MCGM requesting them to take appropriate action against the Respondent No.1 in respect of aforesaid encroachment. It is further version of Applicants that since this Authority failed to take action against the Respondent No.1, they filed Writ Petition (L) No.23799 of 2022 in Hon'ble High Court and prayed to direct this Authority to take action against the Respondent No.1 as well as to decide the representations dated 31.05.2021 & 17.02.2022. The Hon'ble Court through order dated 12.09.2022 directed this Authority to decide the representations dated 31.05.2021 & 17.02.2022 of Applicants i.e. Mrs. Shilpa S. Salvi & Utkarsha Rahivasi Mandal respectively in accordance with law.

The notices were issued to parties and parties are heard on 11.10.2022. On said day Applicants remain present. The Applicant No.2 through authority letter dated 11.10.2022 has authorized the Applicant No.1 to represent and plead on behalf of Applicants. The Respondent No.1 remain present with Adv. S. M. Suryawanshi. All parties are heard at length and matter is closed for order. Time was granted to parties to submit written submission.

### **ARGUMENT OF APPLICANTS**

As stated hereinabove the Applicants have alleged that the Respondent No.1 while implementing the subject SR Scheme has encroached their pathway due to which their access to main road is reduced. It is the case of Applicants that the Applicant No.2 approached Shri Gurudas Kamat, Ex-Union Minister with regard to closure of pathway and common pathway, which is reduced from 10 - 12 feet to about 3 feet. According to Applicants upon letter of Hon'ble Gurudas Kamat, this Authority issued notice dated 25.06.2018 to the Respondent No.1 and its Architect and directed them to submit their explanation about the complaint of Applicants. But the Respondent No.1 has failed to submit any say on record and continued encroachment upon the open space of pathway.

It is the version of Applicants that the Respondent No.1 constructed the compound wall over pathway and thereby access of road to 350 slum dwellers is obstructed even though the said pathway is not part of the subject SR Scheme. According to Applicants the members of the Applicant No.2 are using the said pathway regularly since last 40 years and due to encroachment on said pathway they are facing difficulty in taking their relatives to Hospital through said pathway. It is further version of Applicants that in case of fire the said pathway is the only access from where vehicles of fire brigade can approach.

According to Applicant No.1, the Respondent No.1 carried out construction on proposed DP Road without obtaining the permission of the MCGM, thereby increased the cost of burden on Government. The Respondent No.1 is also in arrears of property tax amounting to Rs.40 to 50 Lakhs to MCGM. It is alleged by the Applicants that in order to pressurize the residents of Applicants No.2, the Respondent No.1 is filling false and frivolous complainants against them with Jogeshwari Police Station. The developer is carrying out construction beyond approval and therefore the action u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 is required to be initiated against the Respondent No.1.

#### **ARGUMENT OF RESPONDENT NO.1**

According to Respondent No.1 the representations of Applicants are not maintainable for several reasons. The Applicants are having no locus standi and representations are liable to be dismissed in limine. According to Respondent No.1 they always acted upon as per the Letter of Intent & Intimation of Approval issued by this Authority and rules and regulation framed from time to time. It is further version of Respondent No.1 that they are implementing the SR Scheme on land CTS No.49(pt), 49/499 to 518, 49/587 to 599 of Village Majas, admeasuring 893 sq. mtrs. for Respondent No.2 society. As per the conditions in the LOI they have constructed the rehab building and safe building as well as compound wall around the said buildings. The compound wall is constructed as per demarcation given by concerned authorities.

It is the version of Respondent No.1 that the Applicants are the group of people who are obstructing the construction of compound wall and Applicants No.2 has forcibly demolished the some portion of the compound wall at the instance of Applicant No.1. It is further version of Respondent No.1 that issues raised by the Applicants as well

as this Authority in notice are replied by them. According to Respondent No.1 the Occupation Certificate upto 15 floors is issued on 02.08.2022 for sale building constructed by them. So also part Occupation Certificate upto 10 Floors is issued to them for rehab building. It is the case of the Respondent No.1 that the Applicants have no legal right to obstruct the construction of compound wall and the Applicants have also not produced any single document to show their rights over the plot of adjoining land and right of pathway of 10 to 12 feet. Further the Applicants are having access towards the road and their plot is not landlocked property. On these grounds the Respondent No.1 has prayed to reject the representations of Applicants.

### **ISSUES AND DISCUSSION**

From rival contentions the issue that arises for determination of this Authority is as to whether the permissions granted to subject SR Scheme to Respondent No.1 needs to be revoked and whether the representations are maintainable.

Now, this Authority proceeds further to discuss in respect of issue raised by Applicants in their representations. The first contention of Applicants is that the Respondent No.1 while implementing the subject SR Scheme has encroached on their vahiwafi pathway due to which their access to main road is reduced from 10 – 12 feet to 3 feet. It is further version of Applicants that the Respondent No.1 constructed compound wall over pathway and thereby access of road of 350 slum dwellers is obstructed even though the said pathway is not part of the subject SR Scheme. There is no access to Fire Tenders and Ambulance in the event of emergency.

As against this it is submitted by Respondent No.1 that they have constructed compound wall as per demarcation given by concerned authorities. As per the terms and conditions of LOI, they

have constructed the rehab building and sale building as well as compound wall around the said buildings.

The Applicants in their representations have specifically contended that the members of the Applicant No.2 are using the said pathway regularly since last 40 years and due to encroachment on said pathway they are facing difficulty in taking their relatives to Hospital through said pathway. It is further version of Applicants that in case of fire the said pathway is the only way from where vehicles of fire brigade can approach.

As against this, it is contended by Respondent No.1 that the Applicants are the group of people who are obstructing the construction of compound wall and Applicants No.2 has forcibly demolished the some portion of the compound wall at the instance of Applicant No.1. According to Respondent No.1 the Occupation Certificate upto 15 floors is issued on 02.08.2022 for sale building constructed by them and upto 10 Floors for rehab building. Further the Applicants are also having alternate motorable access from main road and their plot is not landlocked.

It is admitted fact that the Applicant No.2 has filed Writ Petition (L) No.23799 of 2022 in Hon'ble High Court. In order dated 12.09.2022 the Hon'ble High Court has observed that if the Planning Authority directs the Petitioner i.e. Applicant No.2 to deposit the amount for measurement, then the Petitioner shall comply with the same. The record reveals that in hearing dated 11.10.2022 this Authority has given directions to Petitioner to deposit the requisite amount and Executive Engineer/SRA through letter dated 21.11.2022 has specifically informed the Applicants to deposit the amount directly alongwith necessary documents in the office of CTSO, Andheri. Again a reminder dated 02.01.2023 was also issued but there was no response from Applicants.

On the other hand according to Respondent No.1 the boundary wall is constructed by them as per plot boundary demarcation given by CTSO, Andheri on 08.10.2013. In the absence of cogent evidence it is difficult to accept the contention of Applicants that there is encroachment on their pathway.

The another contention of Applicants that due to alleged encroachment the width of vahiwati pathway is reduced to 3 feet and presently there is no motorable access in the event of emergency, the Fire Tenders and Ambulance cannot pass. In this regard the engineering department has submitted a note dated 22.02.2024 regarding the available access to Applicant No.2. Alongwith note the Executive Engineer has submitted a rough sketch map indicating the alternate access available to the Applicant No.2.

In rough sketch map the disputed pathway is indicated in letters 'B' - 'C'. The rough sketch map reveals that even at present the width of alleged vahiwati pathway is of 6.15 mtrs., which is sufficient for Fire Tenders, Ambulance, etc. Further the Executive Engineer has stated in note that from Southern side of Utkarsha Rahivasi Mandal there is service road of more than 18 mtrs. in width as indicated in letters 'D'- 'E'. Considering the above facts this Authority do not find substance in the contention of Applicants that there is no motorable access to them and there plot is land locked. The rough sketch map dated 22.02.2024 submitted by Executive Engineer shall be the part & parcel of the order.

The another material aspect to be taken into consideration is that the Executive Engineer in his note has stated that for Applicant No.2 as well as one Vijay Nagar Rahivasi Vikas Samiti SRA CHS there is ongoing Slum Rehabilitation Scheme and the demolition of structures at site is in progress.





In view of these facts and circumstances this Authority do not find substance in contentions of Applicants and representations are liable to be rejected. Accordingly this Authority proceed to pass following order.

**ORDER**

1. The representations of Applicants are hereby rejected.
2. The rough sketch map dated 22.02.2024 of Executive Engineer shall be the part of the order.

Date: 21 MAR 2024

Place: Mumbai

  
Chief Executive Officer  
Slum Rehabilitation Authority

No.: SRA/CEO/SRA/HC Dir./Jogeshwari Mata SRA CHS (Prop.)/<sup>23</sup>/2024

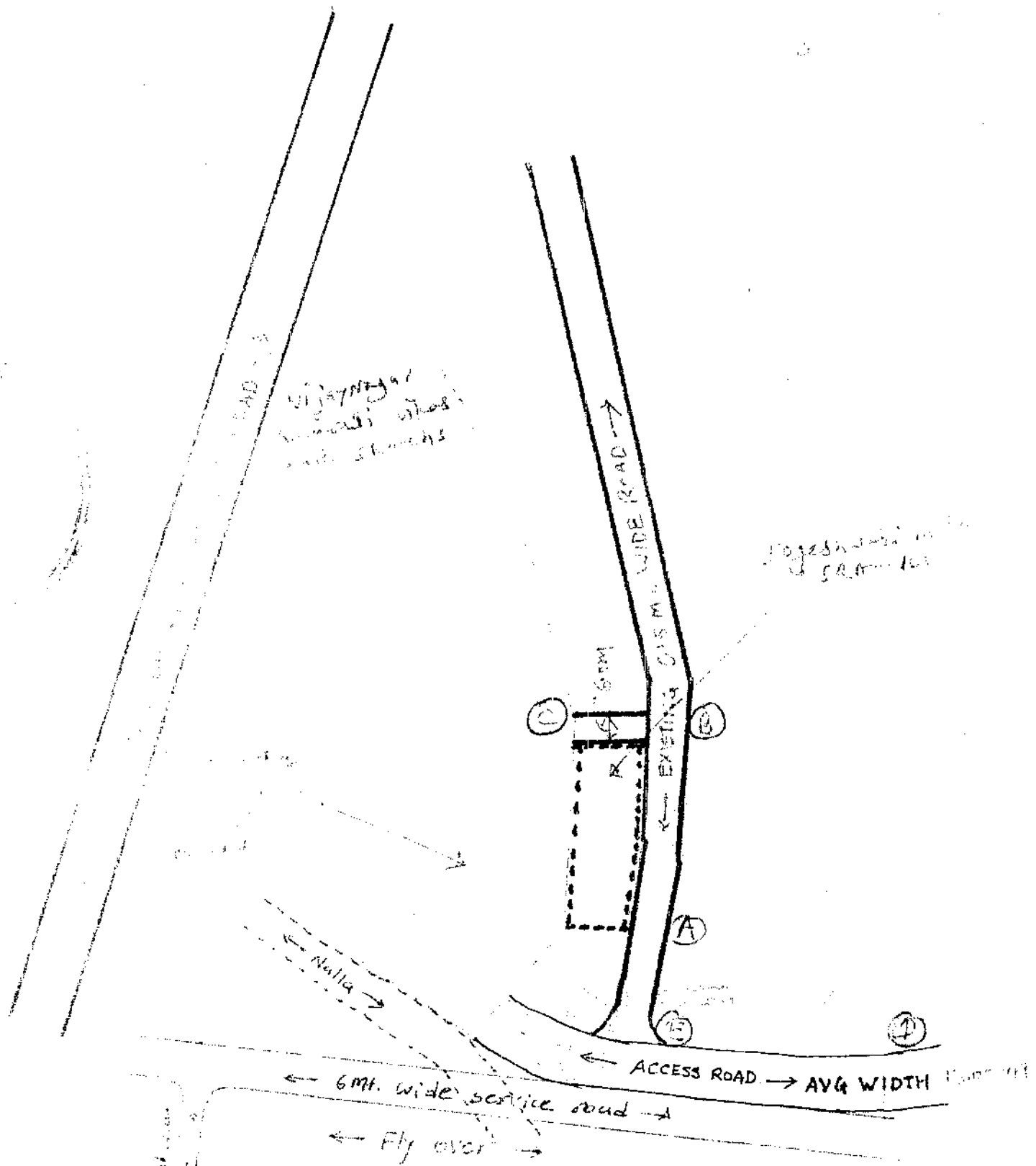
Date: 21 MAR 2024

Copy to:

1. Mrs. Shilpa S. Salvi,  
Room No.110, Joshi Niwas,  
Veer Nilesh Sawant Marg,  
Bandrekarwadi, Jogeshwari (East),  
Mumbai - 400 060
2. Utkarsha Rahivasi Mandal,  
Chawl No.3 & 4, Vijay Nagar,  
Bandrekarwadi, Jogeshwari (East),  
Mumbai - 400 060
3. M/s. Vardhaman Infrastructure,  
Shop No.8, Royal Garden,  
Opp. Hyundai Showroom,  
S.V. Road, Amboli, Jogeshwari (West),  
Mumbai - 400 102  
Shop No.10, Gayatri Darshan,  
Thakur Complex, Kandivali (East),  
Mumbai - 400 101
4. Jogeshwari Mata SRA CHS (Prop.),  
CTS No.49(pt), 49/499 to 518,  
49/587 to 599 of Village Majas,  
Jogeshwari (East), Mumbai - 400 060
5. Deputy Collector (Spl. Cell)/SRA

6. Dy. Chief Engineer/SRA
7. Executive Engineer (K-E Ward)/SRA
8. Assistant Registrar C.S. (Western Suburbs)/SRA
9. DDLR/SRA
10. Information Technology Officer/SRA
11. Chief Legal Consultant/SRA





6.15 M

6.15 M