



SLUM REHABILITATION AUTHORITY

**BEFORE THE CHIEF EXECUTIVE OFFICER,
SLUM REHABILITATION AUTHORITY**

File No.K-W/MHADA/0044/20050719

Saravodaya Residence SRA CHS (Prop.)
CTS No.1 (pt), Mauje - Oshiwara,
Anand Nagar, New Link Road,
Jogeshwari (West), Mumbai - 400 102

... Applicant

V/s

1. M/s. Lashkaria Housing & Infrastructures Pvt. Ltd.
Lashkaria Anurag, 1st Floor, J.P. Road,
Model Town, Four Bungalow,
Near Versova Metro Station,
Andheri (West), Mumbai - 400 053

2. M/s. Point to Point Architects & Consultants
702, 765-Fly Edge, Near Kora Kendra Flyover,
Opp: Pushp Vinod-1, S.V. Road,
Borivali (West), Mumbai - 400 092



... Respondents

ORDER

(Passed on -28/8/23)

The present proceedings are initiated pursuant to Application of Applicant i.e. Saravodaya Residence SRA CHS (Prop.) dated 01.08.2022 in respect of SR Scheme on land CTS No.1A(pt) of Village Oshiwara, Jogeshwari (West), Mumbai - 400 102 on account of inordinate delay in implementation of subject SR Scheme. Hereinafter the abovesaid Slum Rehabilitation Scheme is referred to and called as "subject SR Scheme". In brief the facts which lead to the present proceedings are as under;

FACTS IN BRIEF

That the slum dwellers residing on land CTS No.1A(pt) of Village Oshiwara, Jogeshwari (West), Mumbai - 400 102, admeasuring 6295.30 sq. mtrs. formed the Applicant Society and resolved to redevelop the said land by implementing subject SR Scheme. Initially the Applicant Society appointed one M/s. Hridya Construction Pvt. Ltd. as Developer. The said M/s. Hridya Construction Pvt. Ltd. submitted proposal of subject SR Scheme and same is duly accepted on 19.07.2005. The said land is owned by MHADA. The Competent Authority has issued certified Annexure-II in the year 2005. There are total 120 slum dwellers, out of which 66 slum dwellers are declared as eligible by Competent Authority. Due to non-performance and inordinate delay, the said developer was terminated by Secretary/SRA through order dated 26.06.2018 and the Respondent No.1 was appointed as new developer. However, thereafter the Respondent No.1 failed to obtain any permissions in respect of subject SR Scheme and the scheme is stand still.

The Applicant society has submitted application dated 01.08.2022 for termination of Respondent No.1 as Developer alleging that for last 5 years they have failed to show any progress in subject SR Scheme. Pursuant to said application, the notices were issued to concerned parties and Respondent No.1 was called upon to show cause as to why the action u/s 13 (2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 should not be taken. Accordingly hearing was held on 02.06.2023. On said day representatives of Applicant society remain present alongwith their Advocate Milind Nar. Advocate Chirag Thakkar remain present on behalf of Respondent No.1. Heard all of them at length and matter was closed for order. Directions were



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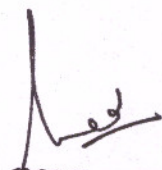
given to all the parties to submit their written submissions within 15 days.

ARGUMENT OF APPLICANT

It is the version of Applicant that slum dwellers have formed proposed Saravodaya Residence SRA CHS and initially appointed one M/s. Hridya Construction Pvt. Ltd. as their developer for implementation of subject SR Scheme. The proposal of subject SR Scheme is submitted to this Authority in the year 2005. Thereafter, the Competent Authority issued the Annexure-II in the year 2005 for total 120 slum dwellers, out of which 66 slum dwellers were held as eligible. The appointment of M/s. Hridya Construction Pvt. Ltd. was terminated by the Secretary/Slum Rehabilitation Authority on 26.06.2018. Thereafter, the Applicant Society appointed Respondent No.1 as developer to implement the subject SR Scheme.

It is further version of Applicant society that the Respondent No.1 has failed to obtain Letter of Intent since their appointment. The period of more than 5 years has passed, but Respondent No.1 failed to show any progress in subject SR Scheme. It is the case of Applicant that the Respondent No.1 is also trying to amalgamate subject SR Scheme with adjoining Schemes for which the consent of the Applicant society is not obtained. On these grounds the Applicant society has prayed to terminate the appointment of Respondent No.1 as developer of subject SR Scheme.

There is another letter of Applicant Society submitted through Mr. Sallauddin Ansari, Chief Promoter dated 06.07.2023 on record. In said letter he has stated that some of the disgruntled members of Applicant society by using letterhead of society trying to create hurdle in implementation of subject SR Scheme. He further stated that he has also filed a complaint against them in Andheri Police Station



for such forgery. He has requested this Authority for not to take any action u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 on the complaint of Applicant society.

ARGUMENT OF RESPONDENT NO.1

It is the case of Respondent No.1 that present complaint is filed by some disgruntled slum dwellers without any consent and knowledge of Society. According to Respondent No.1 the Society is supported them. The Applicant society earlier appointed M/s. Hridya Construction Pvt. Ltd. as their Developer by passing General Body Meeting. The proposal of subject SR Scheme was submitted by M/s. Hridya Construction Pvt. Ltd. and same was duly accepted on 19.07.2005. The land in occupation of slum dwellers is partly belonging to MHADA and MCGM. According to Respondent No.1 there are 432 slum structures on site. On MCGM land, the Annexure-II was issued on 16.03.2005 for 210 slum dwellers out of which 138 were declared as eligible. In respect of MHADA land, the Annexure-II was issued on 21.12.2005 for 122 slum dwellers out of which 66 were declared as eligible.

It is further version of Respondent No.1 that since issuance of Annexure-II in the year 2005, the developer M/s. Hridya Construction Pvt. Ltd. failed to take any steps, so on the request of Applicant society the appointment of M/s. Hridya Construction is terminated through order dated 26.06.2018. After termination, the Respondent No.1 is duly appointed in the year 2018 for implementation of subject SR Scheme. It is the case of Respondent No.1 that their appointment is confirmed by this Authority on 13.07.2021. The MHADA has also issued notice dated 25.02.2022 for issuance of Annexure-II for remaining 97 slum dwellers. During the pendency of issuance of Annexure-II some



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disgruntled slum dwellers of Applicant society filed complaint for their termination.

According to Respondent No.1, the delay is not attributable to them, but due to Covid-19 Pandemic they were not in position to take further steps. It is not in dispute that in the year 2019 to 2020 there was nationwide Covid for around 2 years the developers were not in position to take necessary steps. It is further version of Respondent No.1 that the majority slum dwellers are with them and the present complaint is filed by some disgruntled members of society and complaint against them is also filed in Andheri Police Station for forgery of using letterhead of society. On these grounds the Respondent No.1 prayed to drop the present proceeding initiated against them.

ISSUES

From rival contentions the issue that arise for determination of this Authority is as to whether there is nonperformance on the part of Respondent No.1 and delay caused in implementation of subject SR Scheme is attributable to Respondent No.1.

REASONS

Before proceeding to discuss about rival contention, it is necessary to refer to few material facts. The proposal of subject SR Scheme is accepted by this Authority on 19.07.2005 and developer was M/s. Hridya Construction Pvt. Ltd. Further it appears that due to failure of developer the Applicant society approached to Slum Rehabilitation Authority for termination of developer and the Secretary/SRA through order dated 26.06.2018 terminated M/s. Hridya Construction Pvt. Ltd. as developer of subject SR Scheme. Thereafter, Applicant society appointed Respondent No.1 as developer through General Body Resolution. Since appointment of Respondent No.1, the



period of around 5 years has passed but till date no any permissions were obtained by them.

According to Respondent No.1 the delay is not attributable to them, but due to Covid-19 pandemic they were not in position to take further steps. At this juncture it will be just and proper to mention the observation of Hon'ble High Court in respect of delay and timely completion of scheme. In order dated 01.03.2013 in Writ Petition No.2349 of 2012 M/s. Hi Tech India Construction V/s Chief Executive Officer/SRA, the Hon'ble High Court has observed that the mere issuance of letter on the part of developer would not indicate that there was no delay on the part of developer. These are Slum Rehabilitation Schemes and it is for the Developer to pursue the matter and to ensure that the scheme is implemented without delay. For the sake of convenience the para 5 of said order is reproduced as it is;

"The mere issuance of the letter dated 15th May, 2008, would not indicate that there was no delay on the part of the petitioners. These are slum rehabilitation schemes. It is for the developers to pursue the matter and to ensure that the scheme is implemented without delay. Developers cannot, by merely addressing letters to the authorities, sit back and contend that they had nothing more to do in the matter till they received a reply"

It is contended by Respondent No.1 that some disgruntled slum dwellers of Applicant society has no locus to submit the present application and majority of slum dwellers of society is supporting them. It is true that individual slum dweller has no locus to apply for termination of developer on account of delay but this Authority being a Planning and Project Management Authority is bound to take suo-moto cognizance of inordinate delay in implementation of the scheme.



The concern of this Authority is of inordinate delay. The Respondent No.1 is trying to justify the delay due to Covid-19 pandemic situation. In fact the Respondent No.1 is expected to give cogent reasons as to how the delay is not attributable to them. It has sufficiently come on record that there are two rival groups in society.

The Slum Rehabilitation Authority being a Planning and Project Management Authority cannot remain silent. It is statutory duty of this Authority to see that the schemes are completed within reasonable period. In this regard the observation of Hon'ble High Court in Appeal from Order No.1019 of 2010, Ravi Ashish Land Developers Ltd. V/s. Prakash Pandurang Kamble & Anr. are relevant. The relevant observation of Hon'ble High Court are as under;

"One fails to understand as to how persons and parties like Respondent No.1 are languishing and continuing in the transit accommodations for nearly two decades. When the slum rehabilitation projects which are undertaken by the statutory authority enjoying enormous statutory powers, are incomplete even after twenty years of their commencement, then it speaks volume of the competence of this Authority and the officials manning the same. In all such matters, they must ensure timely completion of the projects by appropriate intervention and intermittently. They may not, after issuance of letter of intent or renewals thereof, fold their hands and wait for developers to complete the project. They are not helpless in either removing the slum dwellers or the developers. The speed with which they remove the slum dwellers from the site, it is expected from them and they must proceed against errant builders and developers and ensure their removal and replacement by other competent agency."

On careful consideration of facts and circumstances on record, this Authority has come to a conclusion that there is inordinate delay and non-performance on the part of Respondent No.1. It is pertinent to note that the reply of Respondent No.1 on record nowhere reveals that the Respondent No.1 has made any substantial progress in subject SR Scheme after their appointment in the year 2018. It will be



just and proper to terminate Respondent No.1 as developer of subject SR Scheme. Accordingly following order is passed.

ORDER

1. The Respondent No.1 i.e. M/s. Lashkaria Housing & Infrastructures Pvt. Ltd. is hereby terminated as developer in respect of subject SR Scheme i.e. SR Scheme on land bearing CTS No.1A(pt) of Village Oshiwara, Jogeshwari (West), Mumbai - 400 102 for "Saravodaya Residence SRA CHS (Prop.)".
2. The Joint Registrar/SRA is directed to hold a General Body Meeting for appointment of Chief Promoter and other Promoters as per circular 169 of Slum Rehabilitation Authority.
3. The Applicant society is at liberty to appoint new developer of their choice as per rules, regulations and policy of Slum Rehabilitation Authority.
4. The newly appointed developer to reimburse the actual expenses incurred by Respondent No.1 in respect of subject SR Scheme till date in accordance with the provisions of section 13(3) of the Maharashtra Slum Areas (I, C & R) Act, 1971.

Place: - Mumbai

Date: - **28 AUG 2023**


Chief Executive Officer
Slum Rehabilitation Authority

No. **SRA / CEO order / Saravodaya Res'domce SRA OKS / 53 / 23**
Date: **28 AUG 2023**

Copy to:

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CTS No.1 (pt), Mauje - Oshiwara,
Anand Nagar, New Link Road,
Jogeshwari (West), Mumbai - 400 102

2. M/s. Lashkaria Housing & Infrastructures Pvt. Ltd.
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Borivali (West), Mumbai - 400 092
4. Tahsildar-1/SRA.
5. Dy. Chief Engineer/SRA
6. Executive Engineer (K/W)/SRA
7. Finance Controller/SRA
8. Joint. Registrar (Western Suburbs)/SRA
9. Information Technology Officer/SRA
10. Chief Legal Consultant/SRA