



SLUM REHABILITATION AUTHORITY

BEFORE THE CHIEF EXECUTIVE OFFICER,
SLUM REHABILITATION AUTHORITY

No. SRA/ENG/832/GS/ML/LOI

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. Om Omega Shelters
103, Smag House, 1st Floor,
Opp. Darshna Apartments,
Behind Nanavati Hospital,
Off. Sarojini Road Ext, Vile Parle (West),
Mumbai - 400 056

2. M/s. Consultant Combined,
B-101, Manik Kunj (Meghwadi),
Dr. S.S. Rao Road, Lalbaug Parel,
Mumbai - 400 012

3. Shiv Ganesh CHS (Prop.),
Shiv Sainath CHS (Prop.),
Shree Ganesh Krupa Commercial Welfare Society - VLT,
& Dhobighat Association CHS
Om Dattaji Nagar, Dhobighat Compound,
Worli D.S. Road, Worli,
Mumbai - 400 018



... Respondents

**Sub.: Suo Moto proceedings u/s 13(2) of Maharashtra Slum Areas
(I, C & R) Act, 1971.**

ORDER

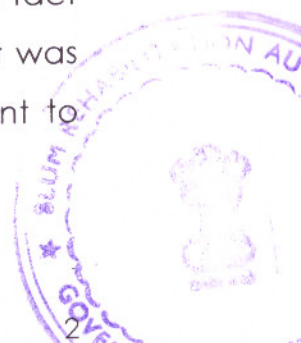
(Passed on - 15.03.2024)

These Suo-Moto proceedings are initiated in respect of Slum Rehabilitation Scheme on land bearing C.S. No.2/136(pt.), 110(pt.) & 109(pt.) of Lower Parel Division for "Shiv Ganesh CHS (Prop.), Shiv

Sainath CHS (Prop.), Shree Ganesh Krupa Commercial Welfare Society – VLT & Dhobighat Association CHS" pursuant to the note of Assistant Registrar (City)/SRA dated 28.06.2021 on account of nonpayment of rent to eligible slum dwellers. Hereinafter the abovesaid Slum Rehabilitation Scheme is referred to and called as "subject SR Scheme".

BRIEF FACTS

The factsheet reveals that the slum dwellers residing on plot of land bearing C.S. No.2/136(pt), 110(pt) and 109(pt) of Lower Parel Division have formed "Shiv Ganesh CHS (Prop), Shiv Sainath CHS (Prop.), Shree Ganesh Krupa Commercial Welfare Society – VLT & Dhobighat Association CHS" and resolved to redevelop the said land by implementing the Slum Rehabilitation Scheme. The above societies appointed Respondent No.1 as Developer for implementation of subject SR Scheme. Pursuant to appointment, the Respondent No.1 submitted proposal of subject SR Scheme to Slum Rehabilitation Authority on land admeasuring 10067.58 sq. mtrs. The ownership of said land is of MCGM. The proposal of subject SR Scheme is duly accepted on 24.09.2003. The certified Annexure-II is issued by Competent Authority on 18.09.2009 for total 755 slum dwellers. Out of which 540 were declared as eligible. Letter of Intent was issued on 24.08.2011 and the same is revised lastly on 04.03.2021. Intimation of Approval for rehab building was issued on 03.01.2012 and the same was lastly amended on 30.04.2021. Plinth Commencement Certificate for rehab building was issued on 05.01.2013, Full Commencement Certificate for rehab building was issued on 19.09.2013 and the same was lastly re-endorsed on 22.07.2021. Part Occupation Certificate to rehab building for 140 tenements was issued on 25.07.2022. The fact sheet further reveals that a stop work notice to sale component was issued on 31.05.2022 on account of non-payment of transit rent to slum dwellers. But none of the party submitted written submission.



HEARING

The matter is heard on various dates. On 22.11.2022, Advocate Bhupendra Singh and Adv. Laxmi Murli appeared on behalf of Respondent No.1. Representative of Respondent No.3 societies remain present alongwith their Advocates. Heard all of them at length and matter was closed for order. Directions were given to submit their written submissions within fifteen days.

CASE OF RESPONDENT NO.1 (DEVELOPER)

Though the Advocate for Respondent No.1 remain present for hearing on 22.11.2022, they failed to submit any say on record. There is copy of letter dated 29.06.2022 of Respondent No.1 on record. According to Respondent No.1, due to Covid-19 pandemic they were unable to arrange the funds and therefore the subject SR scheme got delayed. It is further version of Respondent No.1 that they have paid an amount of Rs.19.32 Crores from April 2021 to till June 2022 towards arrears of transit rent. They have also completed Ground + 2 commercial structures and ready to hand over the same. According to Respondent No.1 almost 80% work of rehab component is completed and in respect of sale component only 10% work is completed. They have also paid an amount of Rs.127 Crores towards transit rent of slum dwellers. They requested this Authority for deferment of 12 months rent during the Covid-19 Pandemic and they assured to pay the same in installments.

It is further version of Respondent No.1 that they have incurred more than Rs.90 Crores towards construction of rehab component. According to Respondent No.1 RCC Construction of rehab building is already completed upto 22 floors and they are ready to complete remaining work and accommodate majority of eligible slum dwellers. They requested to revoke stop work notice issued to sale component.

CASE OF RESPONDENT NO.3 (SOCITIES)

According to Respondent No.3 societies they have appointed Respondent No.1 as developer in the year 2003 and Letter of Intent

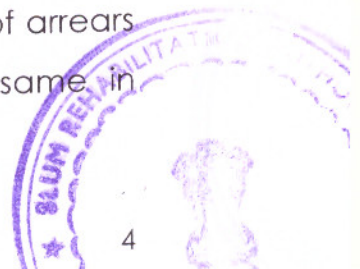
was issued on 24.08.2011. It is further version of Respondent No.3 that the Respondent No.1 has agreed to complete the subject SR Scheme within 36 months but for the last several years the Respondent No.1 failed to comply the said obligation. Even the Respondent No.1 failed to pay the transit rent to slum dwellers for last three to seven years. There is inordinate delay and nonperformance on the part of Respondent No.1. On these grounds they prayed to terminate the appointment of Respondent No.1.

ISSUES

From the facts and circumstances on record the issue that arise for determination of this Authority is as to whether there is nonperformance and inordinate delay on the part of Respondent No.1 in implementation of subject SR Scheme.

REASONS

The fact sheet of engineering department reveals that the proposal of subject SR Scheme is duly accepted on 24.09.2003. The certified Annexure-II is issued by Competent Authority on 18.09.2009 for total 755 slum dwellers. Out of which 540 were declared as eligible. Letter of Intent was issued on 24.08.2011 and the same is revised lastly on 04.03.2021. Intimation of Approval for rehab building was issued on 03.01.2012 and the same was lastly amended on 30.04.2021. Plinth Commencement Certificate for rehab building was issued on 05.01.2013, Full Commencement Certificate for rehab building was issued on 19.09.2013 and the same was lastly re-endorsed on 22.07.2021. Part Occupation Certificate to rehab building for 140 tenements was issued on 25.07.2022. Since acceptance of proposal, the period of around 21 years has passed but till date the Respondent No.1 has failed to rehabilitate all the slum dwellers. The Respondent No.1 has also admitted that they are in arrears of transit rent and they are willing to complete the balance rehab work. In respect of arrears of rent it is submitted that they are ready to pay the same in installments.



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"

This Authority in hearing dated 22.11.2022 has directed the Respondent No.1 to pay the arrears of transit rent in phase-wise manner. There is report of Assistant Registrar dated 10.08.2023 on record. From said report it appears that the Respondent No.1 has failed to comply the said directions. Though the Advocate for Respondent No.1 remain present during the hearing held on 22.11.2022, they have failed to submit any say on record. This approach of Respondent No.1 shows that they are not interested in implementation of subject SR Scheme. The report of Assistant Registrar further reveals that one Mr. Jitendra Ramlal Agrawal has filed complaint bearing KKT/Case No.2789/13/16/2022 in the Maharashtra State Human Rights Commission in respect of non-payment of transit rent to him. The complaint of Jitendra Ramlal Agrawal is disposed of by the Maharashtra State Human Rights Commission through order

dated 21.12.2023 with observations that the issue of transit rent is sub-judiced before the Hon'ble High Court in Writ Petition No.221 of 2022. The record further reveals that Shivsainath SRA CHS & Anr. has filed Writ Petition No.221 of 2022 in Hon'ble High Court on the issue of payment of arrears of transit rent. The said Writ Petition is pending at pre-admission stage and there is no any restraining or ad-interim order passed in said Petition.

There is letter of Deputy Secretary Housing Department dated 14.03.2024 on record. The said letter reveals that the financial institution, M/s. Edelweiss Asset Reconstruction has submitted Application under Amnesty Scheme as per Government Resolution dated 25.05.2022. The said financial institution has expressed willingness to complete the Scheme and to discharge all the obligations and liabilities in respect of subject SR Scheme. The letter further reveals that, after scrutiny of the proposal of M/s. Edelweiss Asset Reconstruction, the Committee constituted by Government under Chairmanship of Hon'ble Additional Chief Secretary, Housing Department through Government Resolution dated 12.07.2023 has approved their proposal under Amnesty Scheme for completion of Scheme through the Agency/representative M/s. Anantaya Buildcon LLP. The record reveals that though the Respondent No.1 has raised the finance from financial institution M/s. Edelweiss Asset Reconstruction. From said facts it appears that Respondent No.1 is not in fit sound financial position.

Considering the overall facts and circumstances this Authority has come to conclusion that there is inordinate delay and non-performance on the part of Respondent No.1. Moreover the Respondent No.1 is not in position to pay transit rent to eligible slum dwellers. In view of these facts and decision of Committee constituted under Amnesty Scheme the Respondent No.1 needs to be terminated as developer of subject SR Scheme. Accordingly following order is passed.



ORDER

1. The Respondent No.1 i.e. M/s. Om Omega Shelters is hereby terminated as developer of subject SR Scheme i.e. SR Scheme on C.S. No.2/136(pt), 110(pt) and 109(pt) of Lower Parel Division for "Shiv Ganesh CHS (Prop), Shiv Sainath CHS (Prop.), Shree Ganesh Krupa Commercial Welfare Society – VLT & Dhobighat Association CHS".
2. The appointment of lender/joint developer M/s. Edelweiss Asset Reconstruction alongwith developer authorized by lender M/s. Anantaya Buildcon LLP is hereby confirmed as per the decision of Committee under the Chairmanship of Hon'ble Additional Chief Secretary, Housing Department on Amnesty proposal of lender.
3. The lender M/s. Edelweiss Asset Reconstruction is directed to take necessary steps including compliance of circular no.210 of SRA.
4. The Executive Engineer is directed to appoint Government approved valuer to determine the expenses incurred by Respondent No.1 in respect of subject SR Scheme till date as per section 13(3) of the Maharashtra Slum Areas (I, C & R) Act, 1971.
5. The newly appointed joint developer/lender to reimburse the actual expenses incurred by Respondent No.1 in respect of subject SR Scheme as per provisions of section 13(3) of the Maharashtra Slum Areas (I, C & R) Act, 1971.

Place: - Mumbai

Date:- 15 MAR 2024


Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO Order/Shiv Ganesh CHS (Prop.) & Ors./ 20 /2024

Date: 15 MAR 2024



Copy to:

1. M/s. Om Omega Shelters
103, Smag House, 1st Floor,
Opp. Darshna Apartments,
Behind Nanavati Hospital,
Off. Sarojini Road Ext, Vile Parle (West),
Mumbai - 400 056
2. M/s. Consultant Combined,
B-101, Manik Kunj (Meghwadi),
Dr. S.S. Rao Road, Lalbaug Parel,
Mumbai - 400 012
3. Shiv Ganesh CHS (Prop.),
Shiv Sainath CHS (Prop.),
Shree Ganesh Krupa Commercial Welfare Society - VLT,
& Dhobighat Association CHS
Om Dattaji Nagar, Dhobighat Compound,
Worli D.S. Road, Worli,
Mumbai - 400 018
4. M/s. Edelweiss Asset Reconstruction
Edelweiss House, off CST Road,
Kalina, Mumbai - 400 098
5. M/s. Anantaya Buildcon LLP,
A142, 14th Floor, A Wing, Mittal Court,
JB Marg, Nariman Point,
Marine Drive Police Station,
Mumbai - 400 021.
6. Dy. Chief Engineer/SRA
7. Executive Engineer (G/S Ward)/SRA
8. Deputy Collector (Spl. Cell)/SRA
9. Financial Controller/SRA
10. Assistant Registrar (City)/SRA
11. DDLR/SRA
- ✓ 12. Information Technology Officer/SRA
13. Chief Legal Consultant/SRA

