

SLUM REHABILITATION AUTHORITY

**BEFORE THE CHIEF EXECUTIVE OFFICER
SLUM REHABILITATION AUTHORITY,
Bandra (East), Mumbai**

SRA/ENG/1144/PS/MHL/LOI

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. Riddhi & Siddhi Developer
3, Krishnai, Unnat Nagar No.1,
Opp. Gajanan Temple, off.
M.G. Road, Goregaon (West),
Mumbai - 400 062
2. M/s. Neo Modern
001, Shree Sai Towers,
Sodawala Lane, Borivali (West),
Mumbai - 400 092
3. Jaihind SRA CHS (Prop.),
Jaihind Mitra Mandal,
Yashwant Nagar Road No.1,
Teen Dongari, Goregaon (West),
Mumbai - 400 104



... Respondents

Sub.:- Proceedings u/s 13(2) of the Maharashtra Slum Areas (I.C. & R.)
Act, 1971.

ORDER

(Passed on 27.07.2023)

These Suo Moto proceedings are initiated in respect of Slum Rehabilitation Scheme on land bearing CTS No.50A(pt) of Village Pahadi Goregaon for "Jaihind SRA CHS (Prop.)" pursuant to the note of Executive Engineer/SRA dated 27.04.2023. Hereinafter the above said Slum Rehabilitation Scheme is referred to and called as "Subject S.R. Scheme". In brief the facts which lead to the present proceedings are as under;

BRIEF FACTS:

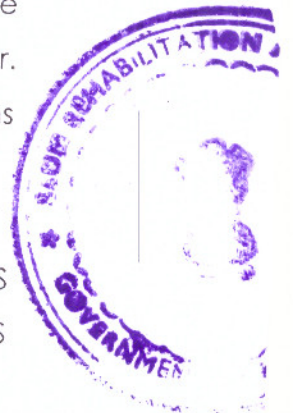
The slum dwellers residing on plot of land bearing CTS No.50A(pt) of Village Pahadi Goregaon formed Respondent No.3 society i.e. Jaihind SRA CHS (Prop.) and in General Body Meeting resolved to redevelop the said land by implementing the Slum Rehabilitation Scheme. The Respondent No.3 Society appointed Respondent No.1 as Developer and Respondent No.2 as Architect for implementation of subject S.R. Scheme. The proposal of subject S.R. Scheme was submitted to Slum Rehabilitation Authority on land admeasuring 5613.82 sq. mtrs. The said land is owned by MHADA. The proposal of subject S.R. scheme is accepted by Slum Rehabilitation Authority on 25.07.2005. However thereafter there is absolutely no progress in subject S.R. Scheme and the Scheme is stand still.

The note of Engineering department dated 27.04.2023 is on record. From said note it appears that the Slum Rehabilitation Authority has recorded 517 dormant proposals through Public Notice dated 20.04.2022 in which the developers and societies have failed to take necessary steps. In said list of 517 Schemes, the subject SR Scheme is at Sr. No.395. The said Public Notice dated 20.04.2022 is set aside by Hon'ble High Court through order dated 10.01.2023 in Writ Petition (L) No.14017 of 2022, Nipun Thakkar V/s. Chief Executive Officer/SRA & Anr.

Pursuant to said order, the notices were issued to the concerned parties and matter was heard on 11.05.2023. On said day representatives of Respondent No.3. Society remain present. Advocate Manoj Pandey remain present on behalf of Respondent No.1. The parties were heard at length and matter was closed for order. Directions were given to parties to submit their written submissions within 15 days.

ARGUMENT OF RESPONDENT NO.1

According to Respondent No.1, the occupants on the land CTS No.50A(pt) of Village Pahadi Goregaon have formed Jaihind SRA CHS



(Prop.) and appointed them as developer through General Body Resolution dated 06.03.2002. Pursuant to the appointment, they submitted proposal to this Authority and same is accepted on 25.07.2005. The proposal for issuance of Annexure-II is forwarded to MHADA for certification of eligibility of slum dwellers. In response to said proposal, the MHADA has informed this Authority that a civil Suit was filed against MHADA by one Smt. Kusum Shinde claiming ownership rights on the basis of adverse possession. The said Suit was dismissed and First Appeal No.1424 of 2004 was filed in Hon'ble High Court and Hon'ble High Court has granted status quo order in favour of Smt. Kusum Shinde, hence the Annexure-II is not issued. Subsequently the Hon'ble High Court through order dated 23.12.2015 dismissed the said Appeal.

According to Respondent No.1, the said order was challenged before the Hon'ble Supreme Court and the same was rejected by imposing cost of Rs.1 Crores. Hence, MHADA was declared as owner. Pursuant thereto, the Respondent No.1 has addressed letter to MHADA for issuance of Annexure-II informing them that there is no stay. The delay is not attributable to Respondent No.1 but the same is occurred due to non-issuance of Annexure-II by MHADA. There is no deliberate or intentional delay as the delay is caused due to stay granted by Hon'ble High Court. According to Respondent No.1 the delay is also occurred due to Covid-19 Pandemic for near about two years. This Authority has recorded 517 dormant proposals through Public Notice dated 20.04.2022 in which the developers and societies have failed to take necessary steps. In said list of 517 Schemes, the subject S.R. Scheme is at Sr. No.395. The said Public Notice dated 20.04.2022 is set aside by Hon'ble High Court through order dated 10.01.2023 in Writ Petition (L) No.14017 of 2022, Nipun Thakkar V/s. Chief Executive Officer/SRA & Anr. In the meanwhile the Respondent No.3 conducted a General Body Meeting for appointment of new Managing Committee as well as new developer pursuant to Public Notice dated

20.04.2022. On these grounds the Respondent No.1 has prayed to drop the present proceedings.

ARGUMENT OF RESPONDENT NO.3

According to Respondent No.3, they have appointed Respondent No.1 as Developer for implementation of subject SR Scheme in the year 2005. Pursuant to their appointment a proposal is submitted by Respondent No.1 and same is accepted on 25.07.2005. The land under the subject SR Scheme is owned by the MHADA. The said land is already declared as Slum Area u/s 4(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 in the year 1977. Since the acceptance of proposal no further permissions is issued and the subject SR Scheme is stand still.

According to claim of Respondent No.3 the delay is occurred due to injunction order passed by Hon'ble High Court in First Appeal No.1424 of 2004 is not tenable. It is further version of Respondent No.3 that the said Appeal is filed in the year 2004 and the Respondent No.1 is well aware about the injunction order dated 21.12.2004 passed in Civil Application No.4061 of 2004 in First Appeal No.1424 of 2004. Even if it is assumed that the Respondent No.1 could not take steps for implementation of subject SR Scheme on account of injunction order dated 21.12.2004, then also nowhere it appears that after passing of order on 18.12.2015 they have taken any steps in subject SR Scheme.

The another contention raised by Respondent No.1 is that the delay is occurred due to policy decision of MHADA dated 05.12.2012 insisting this Authority not to process any SR Schemes on MHADA land is also not tenable. According to Respondent No.3 the policy decision was taken on 05.12.2012 and same is revoked on 25.06.2015 by passing resolution. From acceptance of proposal of subject SR Scheme in the year 2005 till the policy decision taken on 05.12.2012, the Respondent No.1 did not took any steps for implementation of subject SR Scheme. Even after revocation of policy decision on 25.06.2015 and passing order of Hon'ble High Court dated 18.12.2015, till date the Respondent



No.1 failed to make representation for processing Annexure-II and other permissions.

It is further version of Respondent No.3 that after submission of proposal, the Respondent No.1 did not take any steps for implementation of subject SR Scheme. Since the acceptance there is no progress on the part of Respondent No.1. Even the Annexure-II is not issued to the subject SR Scheme. Through Public Notice dated 20.04.2022, this Authority has recorded 517 dormant proposals in which the developers and societies failed to take necessary steps. In said list, the proposal of subject SR Scheme is at Sr.No.395. This Authority has also issued guidelines for acceptance of recorded proposal. The Respondent No.1 has not challenged the said Public Notice dated 20.04.2022 till date.

According to Respondent No.3 pursuant to the Public Notice they called Special General Body Meeting on 10.12.2022 in presence of co-operative officers of SRA. The resolution is passed for appointment of new managing committee and said appointment is also never challenged before any Competent Forum till date. The another resolution is passed for appointment of new developer i.e. M/s. Shree Laxmidevi Developers for implementation of subject SR Scheme. In the meanwhile, the said Public Notice dated 20.04.2022 is set aside by Hon'ble High Court in Writ Petition (L) No.14017 of 2022 vide order dated 10.01.2023. On these grounds the Respondent No.3 prayed to terminate the appointment of Respondent No.1 as developer.

REASONS

It is admitted fact that the proposal of subject S.R. Scheme is accepted by this Authority on 25.07.2005. However thereafter there is absolutely no progress in subject SR Scheme and the Scheme is stand still. The period of more than 17 years has passed and till date not a single slum dweller is rehabilitated. It is the version of Respondent No.3 society that there is delay on the part of Respondent No.1 since the acceptance.

This Authority has recorded 517 dormant proposals through Public Notice dated 20.04.2022 in which the developers and societies have failed to take necessary steps. In said list of 517 Schemes, the subject S.R. Scheme is at Sr. No.395. The said Public Notice dated 20.04.2022 is set aside by Hon'ble High Court through order dated 10.01.2023 in Writ Petition (L) No.14017 of 2022, Nipun Thakkar V/s. Chief Executive Officer/SRA & Anr. It is pertinent to note that while quashing the Public Notice dated 20.04.2022, the Hon'ble High Court in order dated 10.01.2023 in para 13 has made following observation:

"13. We make it clear that we have not restricted or constrained the powers of the SRA to take action in accordance with law, where justified. We have only quashed the impugned notice because it is entirely outside the frame of the law and not in accordance with law".

From above observation of Hon'ble High Court, it is crystal clear that the Hon'ble High Court has not restricted or constrained the powers of this Authority to take action in accordance with law, where justified. In other words, this Authority is having powers to take action in case of inordinate delay.

It is the version of Respondent No.3 society that even after lapse of more than 17 years from the date of acceptance, the developer failed to obtain permissions. It is further version of Respondent No.3 that Respondent No.1 has failed to show any progress in subject SR Scheme since 2005 which indicates that Respondent No.1 is not interested in implementing the subject SR Scheme. The Respondent No.3 society in Special General Body Meeting dated 10.12.2022 has appointed new developer.

The developers implementing the Slum Rehabilitation Schemes are expected to complete the same within reasonable time. The Slum Rehabilitation Scheme is social welfare scheme for the benefit and advancement of slum dwellers. Such inordinate delay in rehabilitation of slum dwellers is bound to frustrate the basic object of Government in



introducing the Slum Rehabilitation Schemes. There is no progress at all and scheme is stand still. The period of more than 17 years is considerable period. Obviously, there is delay in implementation of subject S.R. Scheme. Such inordinate delay in rehabilitation of slum dwellers is bound to frustrate the basic object of Government in introducing the Slum Rehabilitation Schemes.

It is admitted fact that till date the certified Annexure-II is not received. There is nothing on record to accept the contention of Respondent No.1 that the MHADA was not issuing certified Annexure-II. The record nowhere reveals that the Respondent No.1 has made any attempt for expeditious issuance of certified Annexure-II. The Developers implementing the Slum Rehabilitation Schemes are expected to complete the scheme within reasonable period. In this regard the observation of Hon'ble High Court 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 are relevant. In said case the developer was terminated by the Chief Executive Officer/SRA on account of delay of 3 years. The said termination was upheld by High Power Committee. The order of High Power Committee was challenged by developer through said Writ Petition. The Hon'ble High Court upheld the termination. The observation of Hon'ble High Court in para 5 of said order are relevant and same are reproduced as it is for convenience;

"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. Developer 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 further contention of Respondent No.1 that due to injunction order dated 21.12.2004 passed by Hon'ble High Court in First Appeal

No.1424 of 2004 they could not proceed further in the subject SR Scheme. There is nothing on record to hold that due to said injunction order Respondent No.1 was prevented from taking further steps in respect of subject SR Scheme.

The another contention of Respondent No.1 is that the original society has lodged various complaints to this Authority against new managing committee. It is further contended that they have already completed 3 SR Schemes within the vicinity of the Respondent No.3 society with Occupation Certificate. On careful consideration of facts and circumstances on record, this Authority is of view that the Respondent No.1 is trying to find various excuses for the delay in implementation of subject SR Scheme. Almost in every slum dwellers society there are fractions and it is for the developer to complete the task smoothly.

As stated herein above, the developers implementing Slum Rehabilitation Schemes are expected to complete the scheme within reasonable period. If the developers are allowed to implement the Scheme with such snail speed then the very object of Government behind introducing the Slum Rehabilitation Scheme is bound to be frustrated. This Authority being a Planning and Project Management Authority is duty bound 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."

Considering these facts and circumstances this Authority has come to conclusion that there is non-performance and inordinate delay on the part of Respondent No.1 in implementation of subject S.R. Scheme and Respondent No.1 is liable to be terminated as developer of subject S. R. Scheme. Accordingly following order is passed.

ORDER

1. The Respondent No.1 i.e. M/s. Riddhi & Siddhi Developer is hereby terminated as Developer of S.R. Scheme on land bearing CTS No.50A(pt) of Village Pahadi Goregaon for Jaihind SRA CHS (Prop.).
2. The Respondent No.3 i.e. Jaihind SRA CHS (Prop.) is at liberty to appoint new developer of its choice in accordance with rules, regulation and policy of Slum Rehabilitation Authority.
3. The new incoming developer to reimburse the actual expenses incurred by Respondent No.1 as per provisions of section 13(3) of Maharashtra Slum Areas (I, C & R) Act, 1971.

Place:- Mumbai

Date:- **27 JUL 2023**


Chief Executive Officer
Slum Rehabilitation Authority

No.SRA/CEO/13(2)/Jaihind SRA CHS (Prop.)/ **45**/2023

Date:

Copy to: **27 JUL 2023**



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Jaihind Mitra Mandal,
Yashwant Nagar Road No.1,
Teen Dongari, Goregaon (West),
Mumbai - 400 104
4. Deputy Chief Engineer/SRA
5. Executive Engineer (P/S Ward)/SRA
6. DSLR/SRA
7. Tahsildar-1/SRA
8. Finance Controller/SRA
9. Chief Legal Consultant/SRA
10. Joint Registrar (W.S.)/SRA
- ✓ 11. IT Officer/SRA

