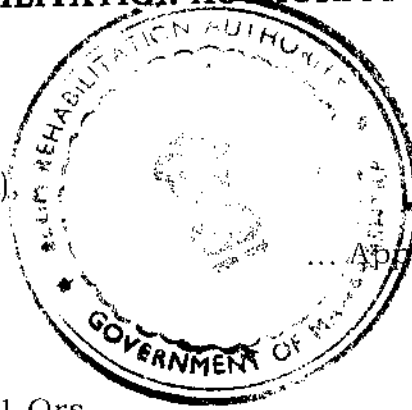




SLUM REHABILITATION AUTHORITY

BEFORE THE CHIEF EXECUTIVE OFFICER,
SLUM REHABILITATION AUTHORITY

M/s. Shree Sai Developments
101, Rishabh Apartments,
Khandelwal Layout,
Evershine Nagar, Malad (West),
Mumbai - 400 064



... Applicant

V/s

Mr. Hareshwar M. Vaidya & 11 Ors.
Through Adv. Jaybhaye and Associates
53/G, St. Joseph House (Rukmini Nivas)
Rautwadi, Mogal Lane, Mahim (West),
Mumbai - 400 016

... Respondents/
Objectioners

Sub.: Proceedings u/s 3C (1) of Maharashtra Slum Areas (I, C & R) Act, 1971.

ORDER

(Passed on - 12 APR 2024)

These proceedings are initiated pursuant to application of Applicant i.e. Shree Sai Developments for Rukmini Smruti SRA CHS (Prop.) dated 28.07.2022 for declaration of land bearing F.P. No.289 TPS-III, admeasuring 540.97 sq. mtrs. of Mahim Division, Mumbai City as "Slum Rehabilitation Area" u/s 3C(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971. Hereinafter the above said land is referred to and called as "said land". In brief the facts which lead to the present proceedings are as under;

FACTS IN BRIEF

The Applicant submitted the present application u/s 3 C of the Maharashtra Slum Areas (I, C & R) Act, 1971 in respect F.P. No.289 TPS-III, admeasuring 540.97 sq. mtrs. of Mahim Division, Mumbai

City. Alongwith application the Applicant submitted copies of PR Card, slum plan, etc. Pursuant to said application, the Executive Engineer (G/N Ward)/SRA through letter dated 24.11.2022 has sought remarks of the District Superintendent of Land Records/SRA. Accordingly the District Superintendent of Land Records has submitted report to Executive Engineer alongwith GIS plan on 28.11.2022. The report reveals that land bearing F.P. No.289 TPS-III, measuring 540.97 sq. mtrs. of Mahim Division, Mumbai City needs to be declared as "Slum Rehabilitation Area".

The Executive Engineer and District Superintendent of Land Records/SRA has visited site on 15.12.2022. At the time of visit Executive Engineer and District Superintendent of Land Records noticed that there were structures and structures were kachha & pakka. The Structures are of ground floor and the same are in use for residential purpose. The structures are situated closely and in congested manner. The internal roads are narrow. There is lack of proper sunlight and ventilation in some part at site. Some of the structures are in dilapidated condition. Lastly Executive Engineer and District Superintendent of Land Records concluded that it will be just and proper to declare the said land as Slum Rehabilitation Area. The occupants on said land have raised objection for said declaration and also refused to sign on said report.

Pursuant to the site visit Executive Engineer issued Public Notice on 20.01.2023. The said Public Notice was given in Marathi and English daily newspapers in "Loksatta" and "Mid-Day" dated 24.01.2023 inviting the objections, if any. The Public Notice is also pasted in the conspicuous place at site on 23.01.2023. Pursuant to Public Notice the objections are received from Respondents.

Notices were issued to the Respondents as well as Applicant and matter is heard on various dates. Lastly matter was heard on 23.06.2023. On said day Adv. Milind Nar appeared on behalf of



Applicant. Adv. Raman Jaybhaye appeared for Respondents. Heard the parties and matter was closed for order.

ARGUMENT OF APPLICANT

According to Applicant the land bearing F.P. No. 289 of TPS-III of Mahim Division, Mumbai City, admeasuring 540.97 sq. mtrs. is owned by them and there are 14 number of slum dwellers residing on said land without any basic amenities. According to Applicant being the land owner, they have made an Application to this Authority for declaration of said land as "Slum Rehabilitation Area". It is further version of Applicant that in joint inspection report it was revealed that the pre-requisite condition for declaration of said land as "Slum Rehabilitation Area" is fulfilled.

It is alleged by the Applicant that the objectioners have raised the objection for said declaration only on the ground of title of Applicant. It is the case of Applicant that they are the owner of the said land as per PR Card. Further the said land is also not accessed by MCGM for property tax. There is copy of Government Resolution dated 05.08.2005 enclosed with written submission of Applicant on record. In said Government Resolution it is mentioned that in case where 25 or less slum structures situated on land, then they cannot be deprived from their rights. It is further version of Applicant that there are PAP tenements generated if the slum scheme is implemented on said land. Hence, it is necessary to declare the said land as Slum Rehabilitation Area. Now, the Applicant through their Advocate Milind Nar has submitted another letter dated 15.01.2024 on record. In said letter they have stated that the said land is visited by them and they observed that there are more than 20 slum structures on site and they are having electricity connections of BEST electricity Company. On these grounds the Applicant has prayed to declare the said land as Slum Rehabilitation Area.



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ARGUMENT OF RESPONDENTS

The Respondents are representing through Advocate Jaybhaye & Associates. According to Respondents, the present Application is not maintainable and is liable to be rejected as the said land is in hygienic and good condition. It is further version of Respondents that there are only 12 tenements in the said chawl who are using more than 300 sq. ft carpet area of their respective tenements. According to Respondents, they are residing on said land since last 100 years and said chawl is not slum. It is further version of Respondent that they are also paying assessment tax to MCGM prior to 1961. Further there is proper access and drainage is also properly maintained. The Respondents relied upon the Government Resolution dated 28.05.2001 issued by Government of Maharashtra. As per said Government Resolution, this Authority cannot declare said land as Slum Rehabilitation Area on the ground that there are no 25 huts on said land and hence condition mentioned in said GR is not fulfilled by the Applicant. On these grounds the Respondents prayed to reject the application of the Applicant.

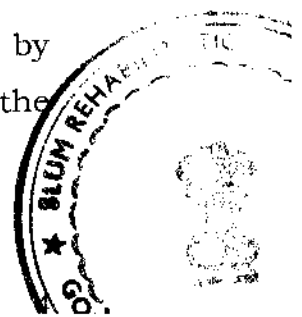
ISSUES

From rival contentions the issue that arise for determination of this Authority is as to whether requisite conditions for declaration of said land as Slum Rehabilitation Area u/s 3C(1) of the Maharashtra Slum Areas (I, C & R) Act, 1971 exist at site and Whether the said land is liable to be declared as Slum Rehabilitation Area u/s 3C of the Maharashtra Slum Areas (I, C, & R), Act, 1971?

DISCUSSION

Through present application the Applicant is seeking to declare the land F.P. No.289 TPS-III, admeasuring 540.97 sq. mtrs. of Mahim Division, Mumbai City as Slum Rehabilitation Area. It is contended by Applicant that the said land is having lack basic amenities and the


SRA



occupants are residing on the said land are living in unhygienic condition.

The record reveals that District Superintendent of Land Records has submitted report alongwith GIS plan on 28.11.2022, wherein it is mentioned land bearing F.P. No.289 TPS-III, admeasuring 540.97 sq. mtrs. of Mahim Division, Mumbai City is liable to be declared as "Slum Rehabilitation Area". Thereafter the Executive Engineer/SRA and District Superintendent of Land Records/SRA has visited site. The report of Executive Engineer and District Superintendent of Land Records is on record. From said report it appears that there were slum structures and slum structures were kachha & pakka. Structures are of ground floor and the same are in use for residential purpose. The slum structures are situated closely and in congested manner. The internal roads are narrow. There is lack of proper sunlight and ventilation in some part at site. It is further observed by the Executive Engineer and District Superintendent of Land Records that the occupants on said land have raised objection for said declaration and also refused to sign on said report.

The written submissions of Applicant as well as Respondents are on record. In written submission of Applicant they have relied upon the Government Resolution dated 05.08.2005 wherein it is mentioned that in case where 25 or less slum structures situated on land, then they cannot be deprived from their rights. As against this, in written submissions of Respondents, they relied upon the Government Resolution dated 28.05.2001 and submitted that the application of the Applicant kindly be rejected on the ground of non-compliance of prerequisite conditions of existence of more than 25 huts on land as stated in said Government Resolution.

Though it is slum area the minimum structures required for implementation of Slum Rehabilitation Scheme are 25 as per Government Resolution dated 28.05.2001. The Applicant has relied



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upon Government Resolution dated 05.08.2005. After going through said Government Resolution, this Authority find that the said Government Resolution is issued for the purpose of basic amenities, toilets, drainage, etc., in slum having 15 structures.

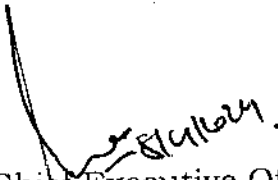
So considering the above facts and circumstances this Authority is of view that it will not be just and proper to declare the said land as Slum Rehabilitation Area as the redevelopment is not possible in present situation. Accordingly this Authority proceed further to pass following order.

ORDER

The Application of Applicant dated 28.07.2022 for declaration of land bearing F.P. No.289 TPS-III, admeasuring 540.97 sq. mtrs. of Mahim Division, Mumbai City as Slum Rehabilitation Area stand rejected.

Date:- 12 APR 2024

Place:- Mumbai.


Chief Executive Officer
Slum Rehabilitation Authority

CC SRA/CEO/M/S. Shree Sai Devel/30/24.

Copy to:

12 APR 2024

1. M/s. Shree Sai Developments
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Through Adv. Jaybhaye and Associates
53/G, St. Joseph House (Rukmini Nivas)
Rautwadi, Mogal Lane, Mahim (West),
Mumbai - 400 0163.
3. Deputy Collector (Spl. Cell)/SRA
4. Dy. Chief Engineer/SRA
5. Executive Engineer (G/N Ward)/SRA
6. Financial Controller/SRA
7. Asst. Registrar (City)/SRA



- ✓ 8. Information Technology Officer/SRA.
- 9. Chief Legal Consultant/SRA.
- 10. DDLR/SRA

