

SLUM REHABILITATION AUTHORITY

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

File No. SRA/ENG/2903/S/PL & STGL/LOI

Jai Akashdeep SRA CHS
CTS No. 712(pt), 718 & 720
Of Friends Colony, Bhandup (East),
Taluka - Kurla, Mumbai - 400 042

... Applicant



V/s

M/s. Aishwarya Construction and Developers
G 1, Ground Floor, Keshav Apartment,
Sidharth Nagar, Vakola, Santacruz (East),
Mumbai - 400 055

... Respondent

ORDER

(Passed on - **5 FEB 2024**)

The present proceedings are initiated pursuant to representations of Applicant dated 18.09.2023 in respect of Slum Rehabilitation Scheme on land CTS No.712(pt), 718, 720 of Village Bhandup (E), Taluka-Kurla, Mumbai- 400 042 for "Jai Akashdeep SRA CHS." Hereinafter the abovesaid Slum Rehabilitation Scheme is referred to and called as "subject SR Scheme". In brief the facts which lead to present proceedings are as under;

BRIEF FACTS:

The slum dwellers residing on plot of land bearing CTS No.712 (pt), 718, 720 of Village Bhandup (East), Taluka Kurla, Mumbai - 400 042 have formed Applicant society and resolved to redevelop the land in their occupation by implementing the Slum Rehabilitation Scheme. Accordingly Applicant passed resolution and appointed Respondent as

Developer for redevelopment. Pursuant to their appointment, the Respondent submitted proposal of subject SR Scheme to Slum Rehabilitation Authority and it was duly accepted on 19.01.2017. The land under the subject SR Scheme admeasuring 2441.00 sq. mtrs. is partly private and partly owned by State Government. The certified Annexure-II was issued on 07.12.2017 for total 82 number of slum dwellers out of which 71 slum dwellers were held eligible. Letter of Intent was issued on 28.09.2018 and same is revised on 09.03.2020. Intimation of Approval to composite building rehab A Wing is issued on 19.10.2018 and the same is amended on 24.06.2020. Further Commencement Certificate to composite building rehab Wing A is issued on 26.05.2023. Thereafter, no further permissions are issued to the subject SR Scheme and the scheme is stand still.

Due to inordinate delay in implementation of subject SR Scheme, the Applicant Society submitted representation dated 18.09.2023 for termination of appointment of Respondent as Developer on account of inordinate delay in implementation of subject SR Scheme and accordingly notices of hearing were issued to the concern parties and the matter was heard on various dates. On 26.12.2023 representatives of Applicant Society remain present along with Adv. M. Khan. Mr. Wilson Fernandis, partner of Respondent remain present. Heard all of them and matter was closed for order. Directions were given to parties to submit their written submission. Inspite of the direction the Respondent has failed to submit written submission on record.

ARGUMENT OF APPLICANT SOCIETY

According to Applicant society they have appointed Respondent as Developer in the year 2017. The land under the subject SR Scheme is partly owned by private and State Government. The Annexure-II is issued on 07.12.2017 for 82 slum dwellers out of which 71 slum dwellers are



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eligible. Letter of Intent was issued on 28.09.2018 and same was lastly revised on 09.03.2020. It is the further version of Applicant that the Respondent has failed to pay the transit rent to all the member of society from 2021 till date. There is delay on the part of Respondent of around 7 years after execution of Development Agreement. The construction work at site is completely stalled. Even the cheques of transit rent have bounced. The Respondent has failed to start the further construction. There is inordinate delay and nonperformance on the part of Respondent in implementation of subject SR Scheme. On these count the Applicant has prayed to terminate the appointment of Respondent as developer of subject SR Scheme.

ISSUES

From rival contentions, the issue that arise for determination of this Authority is as to whether there is nonperformance and inordinate delay on the part of Respondent in implementation of subject SR Scheme.

REASONS

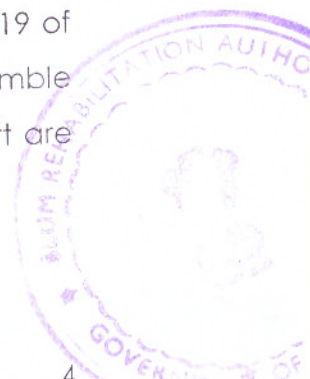
In order to ascertain as to whether there is delay and nonperformance on the part of Respondent it is necessary to look into the record of Engineering Department. The factsheet on record reveals that the proposal of subject SR Scheme on CTS No.712(pt), 718, 720 of Village Bhandup (East), Taluka- Kurla, Mumbai - 400 042 admeasuring 2441.00 sq. mtrs. is submitted by Respondent and it was accepted by this Authority on 19.01.2017. After submission of proposal the Competent Authority had issued certified Annexure-II in the year 2017. Letter of Intent was issued on 28.09.2018 and revised Letter of Intent was issued on 09.03.2020. Intimation of Approval to composite building rehab A Wing is issued on 19.10.2018 and the same is amended on 24.06.2020. Further Commencement Certificate to composite building rehab Wing A is issued on 26.05.2023. Thereafter no approvals are issued to the subject



SR Scheme. It is the version of Applicant that the Respondent has failed to pay the transit rent to members of Applicant society from 2021 till date. It is further version of Applicant that the construction work at site is completely stalled and there is delay of around 7 years on the part of Respondent in implementation of subject SR Scheme.

There is copy of Assistant Registrar/SRA dated 24.01.2024 on record. From said report it appears that the developer is in arrears of rent of 67 slum dwellers for 17 months to the tune of 1,25,29,000/-. The report further reveals that there is no response received from Respondent with regard to the arrears of transit rent as stated here in above. It is the version of Applicant that for last more than 7 years from the date of submission of the scheme, the Respondent has failed to show any progress in the subject SR Scheme. It appears that the representative of Respondent has remain present on 26.12.2023. During the said hearing this Authority has directed the parties to submit their written submissions. In spite of the said directions Respondent has failed to submit their say on record. The conduct of Respondent indicates that they are not interested in implementing the subject SR Scheme. Obviously, there is delay. According to Applicant society the delay is on the part of Respondent. Such inordinate delay in rehabilitation of slum dwellers is bound to frustrate the basic object of Government in introducing the Slum Rehabilitation Schemes. This Authority being a Planning and Project Management Authority is under legal obligation to see that the scheme is completed within reasonable time. In the event of nonperformance and inordinate delay, this Authority is bound to take necessary action. 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;


SRA



"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 above facts and circumstances this Authority has come to conclusion that there is inordinate delay and nonperformance on the part of Respondent in implementation of subject SR Scheme and they are liable to be terminated as Developer. Accordingly following order is passed.

ORDER

1. The Respondent i.e. M/s. Aishwarya Construction and Developers is hereby terminated as developer of subject SR Scheme i.e. SR Scheme on land CTS No.712(pt), 718 and 720 of Friends Colony, Bhandup (E), Taluka-Kurla, Mumbai - 400 042
2. The Applicant society i.e. Jai Akashdeep SRA CHS is at liberty to appoint new developer of its choice in accordance with rules, regulations and policy of Slum Rehabilitation Authority.

3. The newly appointed developer to reimburse the actual expenses incurred by Respondent in respect of subject SR Scheme till date as per provision of section 13(3) of the Maharashtra Slum Areas (I,C &R) Act, 1971.
4. New Developer to comply the provisions of circular no.210 of Slum Rehabilitation Authority.

Place:- Mumbai

Date:- 5 FEB 2024


Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO Order/Jai Akashdeep SRA CHS/06 /2024

Date: 5 FEB 2024

Copy to:

1. Jai Akashdeep SRA CHS
CTS No. 712(pt), 718 & 720
Of Friends Colony, Bhandup (E),
Taluka- Kurla, Mumbai- 400 042
2. M/s. Aishwarya Construction and Developers
G 1, Ground Floor, Keshav Apartment,
Sidharth Nagar, Vakola, Santacruz (E),
Mumbai- 400 055
3. Dy. Chief Engineer/SRA
4. Executive Engineer (S Ward)/SRA
5. Deputy Collector (S.C.)/SRA
6. Financial Controller/SRA
7. Assistant Registrar (E.S.)/SRA
8. Information Technology Officer/SRA
9. Chief Legal Consultant/SRA

