



SLUM REHABILITATION AUTHORITY

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

No. SRA/ENG/1750/MW/PL/LOI

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. Bhagwati Developers Pvt. Ltd.
Rubby Terrace, Room No.9,
Dr. B.A. Road, Parel,
Mumbai - 400 012

2. M/s Vision
49/2346, 2nd Floor,
Bandra Shree Sai Krupa CHS Ltd.
Opp. MIG Club, Bandra (East),
Mumbai - 400 051

3. Aboli Smruti CHS
CTS No.322, 322/1 to 23,
Mauje - Chembur, Taluka - Kurla

4. Ekdanta Real Estate
812, B Wing, Kohinoor Square,
Opp. Shivsena Bhavan,
NC Kelkar Road, Shivaji Park,
Dadar (West), Mumbai - 400 028



... Respondents

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

ORDER

(Passed on **4 JAN 2024**)

These Suo Moto proceedings are initiated in respect of Slum Rehabilitation Scheme on land bearing CTS No.322 & 322/1 to 23, Plot 605, Womanwadi Road, Sion Trombey Road, Chembur, Mumbai - 400 071 for "Aboli Smruti CHS" pursuant to the note of Executive Engineer dated

17.10.2023. 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.322 & 322/1 to 23, Plot 605, Wamanwadi Road, Sion Trombay Road, Chembur, Mumbai - 400 071 formed Respondent No.3 Society i.e. "Aboli Smruti CHS" 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 828.60 sq. mtrs. The said land is private. The proposal of subject S.R. scheme is accepted by Slum Rehabilitation Authority on 25.04.2007. However, thereafter there is absolutely no progress in subject S. R. Scheme and the Scheme is stand still.

The note of Engineering department dated 17.10.2023 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.302. 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. The note further reveals that the Respondent No.4 has submitted a representation dated 29.09.2023 stating that they have acquired the said land through registered Deed of Conveyance dated 25.05.2023 from its original owners and they are interested in implementation of subject SR Scheme.

Pursuant to said note, the notices of hearing were issued to the concerned parties and matter was heard on 09.11.2023. On said day none appeared on behalf of Respondent No.1. Office bearers of Respondent No.3 Society remain present. Advocate Milind Nar appeared for



Respondent No.4. The parties were heard at length and matter was closed for order. Directions were given to parties to submit their written submissions within 7 days. In spite of directions the Respondent No.1 failed to submit their written submissions on record.

ARGUMENT OF RESPONDENT NO.3

According to Respondent No.3, they have formed proposed society namely Aboli Smruti CHS and appointed Respondent No.1 as developer in the year 2007 through General Body Resolution. Since the acceptance of proposal in the year 2007, the Respondent No.1 has failed to obtain any further permission. It is further version of Respondent No.3 that this Authority has recorded 517 dormant proposals through public notice dated 20.04.2022. In said list the proposal of subject SR Scheme is at Sr. No.302. It is further version of Respondent No.3 that through registered Deed of Conveyance dated 25.05.2023, the Respondent No.4 has acquired the ownership rights in respect of the said land. It is the case of Respondent No.3 that in General Body Meeting dated 09.09.2023, they terminated the appointment of Respondent No.1 and confirmed the appointment of Respondent No.4 as new developer. On these grounds the Respondent No.3 prayed to terminate the appointment of Respondent No.1 and grant further permissions to Respondent No.4 for implementation of subject SR Scheme.

ARGUMENT OF RESPONDENT NO.4

According to Respondent No.4, the occupants on said land have formed Respondent No.3 society and have appointed Respondent No.1 as their developer. There are 38 slum dwellers on said land and the said land is declared as "Slum Rehabilitation Area" in the year 2007. The proposal of Respondent No.1 is duly accepted on 25.04.2007. However, since then the Respondent No.1 failed to obtain Annexure-II and the scheme is stand still. It is further version of Respondent No.4 that one Mr. Kuldeep Pednekar, owner of Respondent No.1 Company was expired and thereafter the name of Respondent No.1 Company was removed from the record of Registrar of Companies. According to Respondent No.4 they

have acquired the ownership rights in respect of said land through registered Deed of Conveyance dated 25.05.2023. Further the Respondent No. 3 society in General Body Meeting dated 09.09.2023 terminated the appointment of Respondent No.1 on account of inordinate delay. In said General Body Meeting the Respondent No.3 has appointed them as new developer to implement the subject SR Scheme.

It is the case of Respondent No.4 that there is delay on the part of Respondent No.1 for more than 16 years and they being the land owner of the said land have first preferential right to redevelop their own land. On these grounds the Respondent No.4 has prayed to allow them to implement the subject SR Scheme.

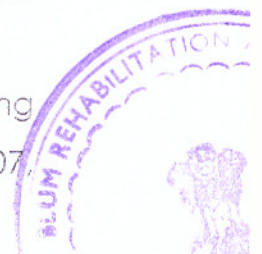
ISSUES

From facts on record the issue that arises for determination of this Authority is as to whether there is nonperformance on the part of Respondent No.1 and delay in implementation of subject S.R. Scheme is attributable to Respondent No.1.

REASONS

It is admitted fact that the proposal of subject S.R. Scheme is accepted by this Authority on 25.04.2007. No Annexure-II is issued in the subject SR Scheme. There is absolutely no progress and the Scheme is stand still. It is the version of Respondent No.3 that since the acceptance of proposal in the year 2007, the Respondent No.1 has failed to obtain any permissions. It is further version of Respondent No.3 that this Authority has recorded 517 dormant proposals in which the proposal of subject SR Scheme is at Sr. No.302. According to Respondent No.3 through registered Deed of Conveyance dated 25.05.2023, the Respondent No.4 has acquired the ownership right in respect of the said land. Further through General Body Meeting dated 09.09.2023, the Respondent No.3 Society terminated the appointment of Respondent No.1 and appointed Respondent No.4 as new developer.

There is written submission of Respondent No.4 on record. According to Respondent No.4, since the acceptance of proposal in the year 2007



the Respondent No.1 has not obtained any further permission and the scheme is stand still. It is further version of Respondent No.4 that one Mr. Kuldeep Pednekar, owner of Respondent No.1 Company was expired and thereafter the name of Respondent No.1 Company was removed from the record of Registrar of Companies. The Respondent No.4 has acquired the ownership right of said land through registered Deed of Conveyance dated 25.05.2023 and therefore being the land owner they requested this Authority to allow them to implement the subject SR Scheme as new Developer.

From record it appears that the Hon'ble High Court has quashed the Public Notice dated 20.04.2022 in Writ Petition (L) No.14017 of 2022 Nipun Thakkar V/s. CEO/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 the 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.

The record reveals that though the notice of hearing was issued to Respondent No.1, they failed to remain present for hearing. In spite of directions the Respondent No.1 failed to submit their written submissions on record. All above version of Respondent No.3 society has gone uncontroverted. There is no explanation forthcoming from Respondent No.1. The conduct of Respondent No.1 indicates that they are not interested in implementing the subject SR Scheme. The period of more than 16 years has passed and till date not a single slum dweller is rehabilitated. Such inordinate delay in rehabilitation of slum dwellers is

bound to frustrate the basic object of Government in introducing the Slum Rehabilitation Schemes. In this regard the observation of Hon'ble High Court in Writ Petition No.2987 of 2018, M/s. Galaxy Enterprises V/s. State of Maharashtra & Ors. are relevant. The relevant observation of Hon'ble High Court are as under;

"58. In any case, the developer cannot be said to possess a vested right which would mandate the SRA to continue it's appointment for such delay and when the body appointing the said developer namely the society itself, in the given set of facts, bonafide and for an acceptable reasons, lacks confidence in the Petitioner as appointed by it. Between the slum society and the developer, it is merely contractual dispute. It cannot be said that the society in adverse circumstances would have no authority in a resolution so passed by the majority to remove a developer. The role of the SRA under law is to further the interest of the slum scheme by exercise of it's powers in the best interest of the slum redevelopment and pass such appropriate orders to achieve the said object, in exercising it's powers inter alia under section 13(2) of the Slums Act."

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;

"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 Bhagawati Developers Pvt. Ltd. is hereby terminated as Developer of S.R. Scheme on land bearing CTS No.322 & 322/1 to 23, Plot 605, Wamanwadi Road, Sion Trombey Road, Chembur, Mumbai - 400 071 for "Aboli Smruti CHS".
2. The Respondent No.3 i.e. Aboli Smruti CHS is at liberty to appoint new developer in accordance with rules, regulations and policy of Slum Rehabilitation Authority.

Place:- Mumbai

Date:- 4 JAN 2024

31/12/24
Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO/13 (2)/Aboli Smruti CHS/ 1/2024

Date:- 4 JAN 2024

Copy to:-

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NC Kelkar Road, Shivaji Park,
Dadar (West), Mumbai - 400 028
5. Deputy Chief Engineer/SRA
6. Executive Engineer (M/W Ward)/SRA
7. DDLR/SRA
8. Deputy Collector (Spl. Cell)/SRA
9. Finance Controller/SRA
10. Chief Legal Consultant/SRA
11. Joint Registrar (E.S.)/SRA
- ✓ 12. IT Officer/SRA

