

SLUM REHABILITATION AUTHORITY

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

**No.RS/MCGM/0019/20080728/809001/
20081224/20090516/20091219**

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. Bhatia and Developers Pvt. Ltd.
Bhatia Estate, Charkop Marve Link Road,
Kandivali (West), Mumbai - 400067

2. Dot Architects
Ground Floor, Shardha Sangeet Vidhyalaya
M.K. Marg, Kalanagar, Bandra (East),
Mumbai - 400051

3. Maansarovar A, Maansarovar B, Bhatia Estate CHS (Prop.)
Manikaran CHS (Prop.), Bharat Nagar Rahiwasi CHS,
Hindustan Nakka Vaipari CHS
Hanuman Nagar, Akruli Road,
Kandivali (East), Mumbai - 400101



... Respondents

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

ORDER

(Passed on 29 APR 2024)

These Suo Moto proceedings are initiated in respect of Slum Rehabilitation Scheme on land bearing CTS No.513, 517(pt), 519(pt), 521(pt), 522, 523(pt), 524(pt), 525(pt), 526(pt), 527, 528(pt), 545(pt), 561.(pt), 567, 568, 569(pt), 570(pt) & 572(pt) of Village Kandivali for "Mansarovar A, Mansarovar B, Bhatia Estate CHS (Prop.), Manikaran CHS (Prop.), Bharat Nagar Rahiwasi

CHS, Hindustan Naka Vaipari CHS" pursuant to the note of Executive Engineer/SRA dated 29.11.2023. 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.513, 517(pt), 519(pt), 521(pt), 522, 523(pt), 524(pt), 525(pt), 526(pt), 527, 528(pt), 545(pt), 561.(pt), 567, 568, 569(pt), 570(pt) & 572(pt) formed Respondent No.3 societies and in General Body Meeting these societies resolved to redevelop the said land by implementing the Slum Rehabilitation Scheme. The Respondent No.3 societies 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 13740.23 sq. mtrs. The said land is owned by MCGM, Government & private. The proposal of subject S.R. scheme is accepted by Slum Rehabilitation Authority on 28.07.2008. The Competent Authority has issued Annexure-II on 13.08.2019 for total 452 slum dwellers out of which 92 slum dwellers were declared as eligible. However thereafter there is absolutely no progress in subject S.R. Scheme and the Scheme is stand still.

The note of engineering department dated 29.11.2023 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.486. 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 15.02.2024. On said day Advocate Santosh Pathak appeared on behalf of Respondent No.1 developer. Representatives of Respondent No.3 societies remain present. 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. The Respondent No.3 societies failed to submit say on record.

ARGUMENT OF RESPONDENT NO.1

It is the version of Respondent No.1 that the Respondent No.3 societies have appointed them as developer of subject SR Scheme. The proposal of subject SR Scheme is submitted on 28.07.2008. According to Respondent No.1 they are the owner of CTS No.521 (pt), 522 and 517 (pt) of Village Kandivali (W) and therefore have preferential right to develop the said property. It is alleged by Respondent No.1 that the portion of CTS No.527 adm. 1018.00 sq. mtrs. belongs to State Government whereas remaining part adm.2199.40 sq. mtrs is a private land which is not declared as slum. Therefore, Respondent No.1 has submitted an application dated 07.08.2019 u/s 3C of Slum Act for declaration of land CTS No.527 as Slum Rehabilitation Area. Thereafter the said CTS No.527 got declared as Slum Rehabilitation Area u/s. 3C of Maharashtra Slum Area (I,C & R) Act, 1971 on 07.12.2020.

According to Respondent No. 1 they have submitted application for Letter of Intent on 24.02.2020 but the same is pending for issuance. It is the version of Respondent No.1 that during the pendency of said application, this Authority recorded the subject SR Scheme. It is the version of Respondent No.1 that they had addressed letter dated 14.12.2021 for grant of NOC regarding ownership of subject SR Scheme to Executive Engineer-II/SRA. The said letter was forwarded by Executive Engineer II/SRA to DSLR/SRA on 12.01.2022 which is still pending. Application is also filed with Tahshildar (W.S.)/SRA for obtaining remarks on verification of 51% consent of slum dwellers which is also pending.

It is the version of Respondent No.1 that in the meanwhile this Authority recorded 517 Slum Rehabilitation Schemes on 20.04.2022 in which the subject SR Scheme is at Sr. No.486 and due to said notice the Scheme is completely halted. Therefore Respondent No.1 has requested to remove the subject SR Scheme from the list of 517 Slum Rehabilitation Schemes. The Respondent

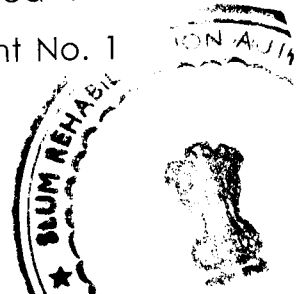
No.1 has submitted a bar chart alongwith written submission. The Respondent No.1 is ready and willing to implement the subject SR Scheme as per the bar chart submitted by them. As per bar chart the Scheme will be completed till March 2029. The Respondent No.1 is also ready to comply with the circular no.210 of Slum Rehabilitation Authority. On these grounds the Respondent No.1 has prayed to drop the proceeding initiated against them. Though the representatives of societies were present for hearing, no oral or written submission is made by them.

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 28.07.2008. The Annexure-II is issued by Competent Authority on 13.08.2019 for total 452 slum dwellers, out of which 92 were declared as eligible. Thereafter no permissions are issued and the Scheme is stand still. It is submitted on behalf of Respondent No.1 that they are the owner of CTS No.521(pt), 522 and 517(pt) of Village Kandivali (W) and therefore they have preferential right to develop the said property. According to Respondent No.1, they had submitted an application dated 07.08.2019 u/s 3C of Slum Act for declaration of part portion of CTS No. 527 as Slum Rehabilitation Area. On 07.12.2020 the CTS No.527 was declared as Slum Rehabilitation Area u/s. 3C of the Maharashtra Slum Areas (I, C & R) Act, 1971. It is the version of Respondent No.1 that during the pendency of application for LOI, this Authority recorded the subject SR Scheme. According to Respondent No.1 the delay is not attributable to them but the same has occurred due to impugned notice dated 20.04.2022 which halted the implementation of subject SR Scheme. It is the version of Respondent No. 1



that they are ready and willing to complete the subject SR Scheme and rehabilitate the eligible slum dweller at the earliest as per bar chart.

The record reveals that though the representatives of Respondent No.3 societies remain present for hearing, they failed to submit any say on record. The present proceeding is initiated pursuant to note of engineering department dated 29.11.2023. 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.486. 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 Respondent No.1 is also ready and willing to complete the subject SR Scheme in time bound manner and undertake to comply the circular no.210 of this Authority.

The developers implementing the SR Schemes are expected to complete the Scheme and rehabilitate the slum dwellers within reasonable time. This Authority is conscious of the delay occurred in implementation of subject SR Scheme. For action u/s 13 (2) of the Maharashtra Slum Areas (I, C & R) Act, 1971, this Authority is required to verify the facts and cause of delay. Merely for the reason that the scheme is not completed within reasonable time the inference cannot be drawn of willful delay or incompetence of the developer. It is necessary to look into the factual aspect which resulted in delay in completion of the Scheme. The Respondent No.1 has submitted Bar chart on record stating that they will complete the subject SR Scheme till March 2029. There is copy of report of engineering department dated 02.12.2009 on record. The said report reveals that Respondent No.1 is the owner of land CTS No.521(pt), 522(pt) & 517(pt).

It is pertinent to note that the Respondent No.1 is owner of the land of part portion of subject SR Scheme. In the event of termination of Respondent No.1, the societies will be required to move proposal for acquisition of said land for which considerable time will be required. Moreover the possibility of



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litigation cannot be ruled out. Considering these facts and circumstances this Authority is of opinion that there is no intentional delay on the part of Respondent No.1 and reasonable time needs to be given to Respondent No.1 for implementation of subject SR Scheme. Accordingly following order is passed.

ORDER

1. The proceedings initiated u/s 13(2) of Maharashtra Slum Areas (I, C & R) Act, 1971 against Respondent No.1 i.e. M/s. Bhatia Land Developers Pvt. Ltd. in respect of subject SR Scheme i.e. CTS No.513, 517(pt), 519(pt), 521(pt), 522, 523(pt), 524(pt), 525(pt), 526(pt), 527, 528(pt), 545(pt), 561,(pt), 567, 568, 569(pt), 570(pt) & 572(pt) of Village Kandivali for "Mansarovar A, Mansarovar B, Bhatia Estate CHS (Prop.), Manikaran CHS (Prop.), Bharat Nagar Rahiwasi CHS, Hindustan Naka Vaipari CHS" are hereby dropped.
2. The Respondent No.1 is directed to complete the implementation of subject SR Scheme as per the bar chart submitted by them.
3. The Executive Engineer/SRA shall supervise the subject SR Scheme and ensure the completion as per bar chart.
4. The Respondent No.1 to comply with the provisions of circular no.210 of Slum Rehabilitation Authority before applying for permissions.



Place:- Mumbai

Date:- 29 APR 2024


Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO/13(2)/Maansarovar A & Ors./ 43 /2024

Date: 2024

Copy to:

1. M/s. Bhatia and Developers Pvt. Ltd.
Bhatia Estate, Charkop Marve Link Road,
Kandivali (West), Mumbai – 400067

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Ground Floor, Shardha Sangeet Vidhyalaya
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Manikaran CHS (Prop.), Bharat Nagar Rahiwasi CHS,
Hindustan Nakka Vaipari CHS
Hanuman Nagar, Akruhi Road,
Kandivali (East), Mumbai - 400101
4. Deputy Chief Engineer/SRA
5. Executive Engineer (R/S Ward)/SRA
6. DDLR/SRA
7. Deputy Collector (Special Cell)/SRA
8. Finance Controller/SRA
9. Chief Legal Consultant/SRA
10. Joint Registrar (W.S.)/SRA
11. ✓ IT Officer/SRA

