



SLUM REHABILITATION AUTHORITY

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

File No. SRA/ENG/900/PS/MHL/LOI

Aadishakti SRA CHS
M.G. Road, Next to Shabri Hotel,
Near Gajanan Maharaj Temple,
Goregaon (West), Mumbai - 400 062

V/s

1. M/s. Dhanawade Associates
Narayan Poojari Nagar,
Kalpataru Building, Ground Floor, 11,
Abdul Gafar Khan Road,
Worli Seaface, Mumbai - 400 018
2. Shri. Jaysingh Shinde
C/7, Swapna Safalya, Sasmira Marg,
Prabhadevi, Mumbai - 400 018
3. M/s. L.K. Limani Co.
Unif - 6, K.K. Apartment,
Plot No.28, New Maneklal Estate,
L.B.S. Marg, Ghatkopar (West),
Mumbai - 400 086

... Applicant



... Respondents

... Intervener

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

ORDER

(Passed on - 15 APR 2024)

The present proceedings are initiated pursuant to representation of Applicant dated 04.08.2022 in respect of Slum Rehabilitation Scheme on land CTS No.59(pt) of Village Goregaon, Taluka Borivali, M.G. Road, Goregaon (West) for Aadishakti SRA CHS. Hereinafter the abovesaid Slum


CEO / SRA

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 77 slum dwellers residing on land CTS No.59(pt) of Village Goregaon, Taluka Borivali, M.G. Road, Goregaon (West) formed Aadishakti SRA CHS and resolved to redevelop the land admeasuring 1339.20 sq. mtrs. in their occupation by implementing the Slum Rehabilitation Scheme. Accordingly, General Body Meeting of society was held and Respondent No.1 was appointed as Developer and Respondent No.2 as Architect for redevelopment. Pursuant to appointment a proposal was submitted to this Authority and same was duly accepted on 26.05.2004. The land on which the subject SR Scheme is proposed is owned by MHADA. The MHADA has issued Annexure-II dated 17.11.2004 certifying 71 slum dwellers as eligible. Letter of Intent was issued on 26.07.2005 and Revised Letter of Intent was issued on 28.03.2007. The Intimation of Approval for Composite Building comprising of Gr. + 7 upper floor was issued on 27.10.2005 and the same was amended on 28.03.2007. The plinth Commencement Certificate for Composite Building was issued on 20.01.2006. The full Commencement Certificate for Composite Building was issued on 09.03.2006. Intimation of Approval for Sale Building was issued on 12.06.2007. Thereafter no further approvals were issued to the subject SR Scheme and the scheme is stand still.

Due to inordinate delay and non-performance on the part of Respondent No.1, the Applicant society submitted a representation dated 04.08.2022 to this Authority and requested to terminate the appointment of Respondent No.1 as developer. Pursuant to said representation the notices of hearing were issued to the concerned parties. The matter was heard on 14.10.2022 & 19.04.2023. On 19.04.2023 Mr. Sameer Dhanawade remain present for Respondent No.1. None for Applicant society remain present. Mr. Dharmendra Limani appeared Suo-Moto. Respondent No.1 is heard at length and matter was closed for order. Directions were given to submit their written submissions within 7 days.



ARGUMENT OF APPLICANT SOCIETY

According to Applicant society through General Body Resolution they appointed Respondent No.1 as developer. Accordingly the Respondent No.1 has submitted the proposal of subject SR Scheme to Slum Rehabilitation Authority and same is duly accepted on 26.05.2004. It is further version of Applicant society that after appointment of Respondent No.1 in the year 2004, the Respondent No.1 obtained Letter of Intent on 26.07.2005. The Commencement Certificate for construction of plinth level only for composite building is issued on 20.01.2006. Due to non-compliance of terms and conditions of approvals, the Revised Letter of Intent is issued on 28.03.2007. In the year 2010 the composite building was completed without providing basic amenities and Respondent No.1 shifted slum dwellers in said building without obtaining Occupation Certificate. Thereafter no further approvals issued in favour of Respondent No.1. Even till the year 2014, the Respondent No.1 failed to apply for further approvals for the completion of Composite Building.

It is the version of Applicant that this Authority on 06.06.2014 directed Respondents to take occupation/completion certificate to Composite Building by submitting all compliances of LOI, CC, OCC etc. in SOP format. In spite of said directions, the Respondent No.1 failed to obtain further permissions for implementation of the subject SR Scheme. The Applicant society has lost faith and confidence in Respondent No.1. It is further version of Applicant that the Respondent No.1 though letter dated 14.04.2022 informed them that their firm is not in financial position to complete the subject SR Scheme. Pursuant to said letter the Applicant society approached this Authority to terminate appointment of Respondent No.1 in subject SR Scheme. On these grounds the Applicant prayed this Authority to terminate appointment of Respondent No.1 as their Developer of the subject SR Scheme.

ARGUMENT OF RESPONDENT NO.1

At the outset it is denied by Respondent No.1 that there is any delay in implementation of subject SR Scheme on their part. After their

appointment as developer they procured the requisite permissions for redevelopment and virtually completed the construction of Rehab Building. Late Jaisingh Shinde, Architect and Mr. Lava Teja Poojari, Chief Promoter of society illegally allotted rehab tenements to illegal and ineligible slum dwellers. It is pertinent to note that the said allotment dated 28.09.2009 is declared illegal by the co-operative department of SRA through letter dated 29.09.2019. It is further version of Respondent No.1 that the Applicant society is not permitting them to complete the construction of sale building. If at all there is any delay, then the same is solely attributable to the Applicant society who have obstructed to hand over the constructed area of reserved retail market to BMC. The construction work of 90% is completed before September 2009. The action against the 35 illegal and ineligible occupants is also initiated by Competent Authority and the same is pending.

It is the version of Respondent No.1 that they have also filed Application No.124 of 2016 before the Hon'ble High Power Committee thereby seeking relief against this Authority to issue further permission to sale building without insisting Occupation Certificate to rehab building. The said Application is still pending. It is contended by Respondent No.1 that the appointed Architect Mr. Jaisingh Shinde died on 15.04.2018 and the original documents of subject SR Scheme were lying with, him, so they could not apply for further permissions. Now Respondent No.1 has appointed new Architect Mr. Vivek D. Sawant in place of Mr. Jaisingh Shinde and application for Revised LOI is submitted to this Authority on 29.03.2023. The Respondent No.1 is ready and willing to complete the subject SR Scheme within 24 months subject to issuance of further approvals by this Authority. A Writ Petition (L) No.11783 of 2023 is also filed by Respondent No.1 in Hon'ble High Court challenging the show cause notice issued u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971. On these grounds the Respondent No.1 prayed to drop the present proceedings u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971.



ARGUMENT OF INTERVENER

It is the version of Intervener that they have entered into registered Construction cum Development Agreement with Respondent No.1 for construction of rehab as well as sale component on said land. It is alleged by Intervener that the Respondent No.1 has agreed to allot area admeasuring 14,152.80 sq. ft. built up area in sale building in consideration of construction of rehab and sale building. Accordingly the construction of rehab building was completed by them in the year 2007. The Intervener is ready and willing to complete the construction of sale building subject to approval granted by this Authority. It is alleged by Intervener that due to non-cooperation of Respondent No.1 they are suffering huge loss. On these grounds the Intervener has requested to allow their intervention application.

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 No.1 in implementation of subject SR Scheme.

REASONS

It is admitted fact that the proposal of subject SR Scheme is accepted by this Authority on 26.05.2004 and certified Annexure-II is issued on 17.11.2004 declaring 71 slum dwellers eligible out of total 77. Letter of Intent was issued on 26.07.2005 and Revised Letter of Intent was issued on 28.03.2007. The Intimation of Approval for Composite Building comprising of Gr. + 7 upper floor was issued on 27.10.2005 and the same was amended on 28.03.2007. The plinth Commencement Certificate for Composite Building was issued on 20.01.2006. The full Commencement Certificate for Composite Building was issued on 09.03.2006. Intimation of Approval for Sale Building was issued on 12.06.2007.

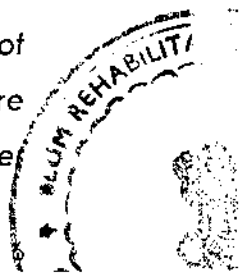
According to society, the Respondent No.1 has submitted the proposal of subject SR Scheme and same is accepted in the year 2004. After appointment of Respondent No.1, they have obtained Letter of Intent and further permissions. In the year 2010, the Respondent No.1

shifted slum dwellers in rehab building without obtaining Occupation Certificate. In the year 2014, this Authority has also directed Respondents to take occupation/completion certificate to Composite Building by submitting all compliances of LOI, CC, OCC etc. in SOP format. But inspite of said directions, the Respondent No.1 failed to obtain further permissions. It is further version of Applicant that, the Respondent No.1 though letter dated 14.04.2022 informed them that their firm is not in sound financial position to complete the subject SR Scheme.

According to Respondent No.1 the delay in implementation of subject SR Scheme is not attributable to them. In support of said contention the Respondent No.1 has putforth various grounds. It is contended by Respondent No.1 that the Applicant society is not permitting them to complete the construction of sale building and the delay is solely attributable to the Applicant society who have obstructed to handover constructed area of reserved retail market to BMC. The Respondent No.1 lastly submitted that the Respondent No.1 is taking all possible steps for early completion of subject SR Scheme. But it is the Applicant society who is non-cooperative and complaining against them.

In natural course of conduct the Respondent No.1 ought to have informed Slum Rehabilitation Authority but it appears that Respondent No.1 has done nothing. There is no evidence whatsoever to accept the contention of Respondent No.1 regarding alleged obstruction by Applicant society. These are the SR Schemes and ones the developer agreed for redevelopment then it is for the developer to sort out the things and to complete the Schemes within reasonable time as observed by 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. The Chief Executive Officer, SRA. The relevant observations of Hon'ble High Court in para 5 of said order is 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. Developers 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"

Since the acceptance of proposal the period of more than 19 years has passed. Even the Respondent No.1 has constructed composite building in the year 2009 and same is occupied by slum dwellers without Occupation Certificate. Admittedly since the year 2009 the construction activity at site is totally stopped. According to Respondent No.1 the Applicant is non cooperative. As stated hereinabove it is duty of Respondent No.1 to sort out things.

The concern of this Authority is of inordinate delay. The Respondent No.1 is trying to justify the delay by raising various other grounds. In fact the Respondent No.1 is expected to give cogent reasons as to how the delay is not attributable to them. The Slum Rehabilitation Authority being a Planning and Project Management Authority cannot remain silent. It is statutory duty of this Authority 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

 . GRA



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."

The Respondent No.1 has filed Writ Petition (L) No.11783 of 2023 in the Hon'ble High Court and prayed to withdraw show cause notice issued against them u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971. The official website of Hon'ble High Court reveals that the said Petition is at admission stage and there is no any interim or restraining order passed.

On careful consideration of these facts and circumstances, this Authority has come to conclusion that there is inordinate delay and non-performance on the part of Respondent No.1. This Authority being Planning and Project Management Authority is bound to take action. Accordingly following order is passed.

ORDER

1. The Respondent No.1 i.e. M/s. Dhanawade Associates is hereby terminated as developer of subject SR Scheme i.e. SR Scheme on CTS No.59(pt) of Village Goregaon, Taluka Borivali, M.G. Road, Goregaon (West) for "Aadishakti SRA CHS".
2. The Applicant society i.e. Aadishakti SRA CHS 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: - 15 APR 2024


Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO Order/Aadishakti SRA CHS/26 /2024

Date: - 15 APR 2024

Copy to:


SRA



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Near Gajanan Maharaj Temple,
Goregaon (West), Mumbai - 400 062
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Plot No.28, New Maneklal Estate,
L.B.S. Marg, Ghatkopar (West),
Mumbai - 400 086
5. Dy. Chief Engineer/SRA
6. Executive Engineer (P/S Ward)/SRA
7. Deputy Collector (Special Cell)/SRA
8. Financial Controller/SRA
9. Assistant Registrar (W.S.)/SRA
- ✓ 10. Information Technology Officer/SRA
11. Chief Legal Consultant/SRA

