

SLUM REHABILITATION AUTHORITY

**BEFORE THE CHIEF EXECUTIVE OFFICER,
SLUM REHABILITATION AUTHORITY
No.SRA/ENG/1226/L/MHL/LOI**

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. Gagangiri Enterprises
10, Sharif Manzil, 37th Road,
Bandra (West), Mumbai - 400 050
2. Kurla Mahananda Nagar SRA CHS Ltd.
Bhimaji Buwa Compound, New Mill Road,
Kurla (West), Mumbai - 400 070
3. (i) Smt. Rushi Damodar Gadekar
(ii) Smt. Manorma Katkar
(iii) Shri. Ravji Bhauja Patel
(iv) Shri. Becharbhai Anandabhai Patel
(v) Shri. Chandradev Gupta
(vi) Shri. Vijaykumar Jain
(vii) Shri. Ramashankar Gupta
(viii) Smt. Subhadra Bhanudas Thorat
(ix) Smt. Indumati Vijay Shirsagar
(x) Shri. Nimesh Himatlal Gandhi
Mahananda Nagar, Bhimaji Buwa Chawl,
New Mill Road, Kurla (West),
Mumbai - 400 070



... Respondents

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

ORDER

(Passed on - 18/7/2023)

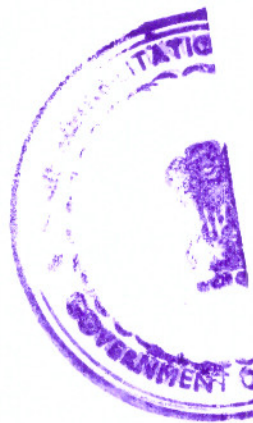
These Suo-Moto proceedings are initiated in respect of Slum Rehabilitation Scheme on land CTS No.503(pt) and 506(pt) of Village Kurla for "Kurla Mahananda Nagar SRA CHS" pursuant to the note of

Assistant Registrar (Eastern Suburb)/SRA dated 06.12.2022 on account of nonpayment of rent. Hereinafter the abovesaid Slum Rehabilitation Scheme is referred to and called as "subject SR Scheme".

BRIEF FACTS

The Assistant Registrar (Eastern Suburb)/SRA submitted a note dated 06.12.2022 stating that there are total 114 slum dwellers declared as eligible out of which 96 slum dwellers are eligible for residential purpose and 18 slum dwellers are eligible for commercial purpose. The possession of 90 residential tenements as well as 8 commercial tenements is handed over to the respective slum dwellers. Possession to the remaining 6 residential and 10 commercial slum dwellers is not given yet. The report further reveals that the Respondent No.3 slum dwellers have submitted application in prescribed format to the Assistant Registrar for payment of arrears of rent. During the hearing held before the Assistant Registrar, those slum dwellers as well as developer have submitted statement of arrears of rent. Their claims are conflicting.

The factsheet reveals that the slum dwellers residing on plot of land bearing CTS No. 503(pt) and 506(pt) of Village Kurla have formed Kurla Mahananda Nagar SRA CHS and resolved to redevelop the said land by implementing the Slum Rehabilitation Scheme. The Respondent No.2 society appointed Respondent No.1 as Developer for implementation of subject SR Scheme. Pursuant to appointment, the Respondent No.1 submitted proposal of subject SR Scheme to Slum Rehabilitation Authority on land admeasuring 2360.9 sq. mtrs. The ownership of said land is of MHADA. The proposal of subject SR Scheme is duly accepted on 24.11.1995 and converted from SRD to SRA on 29.04.2005. The Annexure-II is issued by Competent Authority on 09.02.2005 for total 115 slum dwellers, out of which 109 slum dwellers were declared as eligible. Letter of Intent was issued on 16.12.2005 and the same is revised on 14.10.2010. Intimation of Approval for composite building rehab Wing "B", "C" and "D" was issued on 28.07.2006 and the same is lastly amended on 10.04.2012. Plinth Commencement



Commencement Certificate to composite building rehab wing "C" and "D" was issued on 10.04.2012. Part Occupation Certificate to composite building rehab wing "C" and "D" was issued on 18.01.2013. The factsheet further reveals that Stop Work notice to sale component was issued on 23.07.2021 on account of nonpayment of rent.

HEARING

The matter is heard on 05.01.2023 and 02.05.2023. On 02.05.2023 Mr. Deepak Shinde and Mr. Ikhlaq Dabawala alongwith Advocate Sunil Pandey remain present on behalf of Respondent No.1. Representative of Respondent No.2 Society remain present. Heard the parties and the matter was closed for order. Directions were given to parties to submit their written submissions.

ARGUMENT OF RESPONDENT NO.1 (DEVELOPER)

It is the version of Respondent No.1 that the occupants of land CTS No.503(pt) and 506(pt) have formed Kurla Mahananda Nagar SRA CHS Ltd. and appointed Respondent No.1 as developer for implementation of subject SR Scheme. The land in occupation of Respondent No. 2 is owned by MHADA and the same is censused slum. There are total 115 slum dwellers out of which 97 are eligible for residential and 18 are eligible for commercial purpose. The Letter of Intent to the subject SR Scheme was issued in the year 2005 and the same was lastly revised on 14.10.2010. Intimation of Approval to Composite building was issued on 28.07.2006 and same was amended on 15.07.2011. In the year 2013 possession to 96 slum dwellers is handed over in rehab building wing "C" and "D". It is further version of Respondent No.1 that due to complaints of committee member, the stop work notice was issued on 23.07.2021. Due to said stop work notice the entire construction work is stand still. The Respondent No.1 was also called upon to comply with recommendation made by IIT Powai vide report dated 15.07.2021. Infact the Respondent No.1 is ready and willing to carry out repair as per their recommendation. But due to non-cooperation on the part of office bearers, they could not complete the repair work as per IIT Powai report.



KURLA MAHANANDA NAGAR SRA CHS LTD.

According to Respondent No.1 the delay is not attributable to them but the same is occurred due to non cooperation on the part of Respondent No.3 slum dwellers. It is further contention of the Respondent No.1 that they had taken joint meeting with Respondent No.3 to resolve the issues arisen between them but the committee members are not allowing them to repair the building. In the year 2013, the possession to 90 % slum dwellers is already handed over with part Occupation Certificate. It is further version of Respondent No.1 that they are ready and willing to implement the subject SR Scheme. On these grounds the Respondent No.1 has prayed to revoke the stop notice dated 23.07.2021 and grant them time to pay the arrears of rent in 4 installments.

ARGUMENT OF RESPONDENT NO.2

It is the case of Respondent No.2 that the land in their occupation is acquired by them through lease in the year 1992. It is alleged by the Respondent No.2 that the biometric survey of 115 slum dwellers is conducted without visiting the site and obtaining necessary documents. According to Respondent No.2, the Respondent No.1 has obtained forged and fabricated signatures of 98 slum dwellers for obtaining consents. It is further version of Respondent No.2 that in police inquiry it reveals that Shri. Narayan Janu Pawar was expired on 20.03.2002 so the Development Agreement executed by him in the year 2005 is invalid. The Respondent No.1 has executed forged and fabricated documents. Even the Anti-Corruption Bureau has directed the Competent Authority to verify the eligibility as per Annexure-II by conducting inquiry and in said enquiry it reveals that the said Annexure-II is forged and fabricated.

It is further version of Respondent No.2 that the appointment of developer and architect is also done on the basis of forged General Body Meeting. The allegations raised in the subject SR Scheme is also pointed out in Assembly session. According to Respondent No.2 the water tank is connected to sewerage tank and due to leakage of drainage line, the drinking water is polluted. The site was also inspected by VJTI and it was revealed that in lift duct 4 to 5 ft. water was found.

The unauthorized construction of 5th floor in the building is also found.



regularization fees. The Occupation Certificate to rehab building is also not obtained. The construction of rehab building is carried out beyond permission and therefore stop work was also issued in the year 2010. There is gross irregularities and violation of rules of Slum Rehabilitation Authority.

According to Respondent No.2 the construction work of rehab building is of poor quality and structural audit report of IIT Powai reveals that due to poor quality of construction, repair to rehab building is required. In spite of various requests on the part of Respondent No.2, the Respondent No.1 did not start the repair work. Further the Respondent No.1 failed to pay the arrears of rent since last six years. On these grounds the Respondent No.2 has prayed to terminate the appointment of Respondent No.1 as developer.

ISSUES

From the facts and circumstances on record 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

Before proceeding to discuss the rival contentions it is necessary to look into the factual aspects of subject SR Scheme. The proposal of subject SR Scheme is converted from SRD to SRA on 29.04.2005. Annexure-II is issued by Competent Authority on 09.02.2005 for total 115 slum dwellers, out of which 109 slum dwellers were declared as eligible. Letter of Intent was issued on 16.12.2005 and the same is revised lastly on 14.10.2010. Intimation of Approval for composite building rehab Wing "B", "C" and "D" was issued on 28.07.2006 and the same is lastly amended on 10.04.2012. Plinth Commencement Certificate for composite building was issued on 21.08.2007 and further Commencement Certificate to composite building rehab wing "C" and "D" was issued on 10.04.2012. Part Occupation Certificate to composite building rehab wing "C" and "D" was issued on 18.01.2013. The

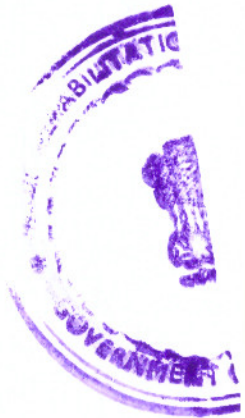


factsheet reveals that the Stop Work notice to sale component was issued on 23.07.2021 on account of nonpayment of rent.

Now, this Authority has to decide whether the delay is attributable to Respondent No.1 and Respondent No.1 is liable to be terminated on account of inordinate delay and nonpayment of rent on their part. It is the version of Respondent No.2 that inspite of several directions the Respondent No.1 has failed to pay the transit rent to them. According to Respondent No.2 the delay is solely attributable to Respondent No.1. It is alleged by Respondent No.2 that the Respondent No.1 has obtained forged and fabricated signatures of 98 slum dwellers for obtaining consents. Even in enquiry conducted by Competent Authority it is revealed that the said Annexure-II is forged and fabricated. Further the appointment of developer and architect is also done on the basis of forged General Body Meeting. It is further alleged by the Respondent No. 2 that the construction work of rehab building is of poor quality and structural audit report of IIT Powai reveals that due to poor quality of construction, the rehab building is required to be repaired. But inspite of various requests, the Respondent No.1 has not started any repair work.

As against this, it is the version of Respondent No.1 that in the year 2013, possession to 96 slum dwellers is handed over in rehab building wing "C" and "D". It is further version of Respondent No.1 that due to complaints of committee member, the stop work notice was issued on 23.07.2021. Due to said stop work notice the entire construction work is stand still. It is further version of Respondent No.1 that due to non-cooperative conduct on the part of office bearers of society, they could not carry out the repair work as per IIT Powai report.

The record reveals that the Respondent No.1 has lastly obtained the part Occupation Certificate on 18.01.2013 to rehab wings "C" and "D". It is admitted fact that the Respondent No.1 is in arrears of rent. In written submission dated 10.05.2023, the Respondent No.1 has contended that they are ready to pay the balance amount of rent in 4 installments. The Respondent No.3 is a group of 10 slum dwellers. They



have made application to Assistant Registrar complaining about nonpayment of rent by Respondent No.1.

On careful consideration of these facts and circumstances, there appears to be conflicting claims in respect of arrears of pending rent. In submission made by Respondent No.2 to the Assistant Registrar, it is alleged that the arrear are to the tune of Rs.1,71,37,884/- as against this according to Respondent No.1 the arrears of rent amount is Rs.66,66,000/-. In order to ascertain the exact amount of arrears, it is necessary that Assistant Registrar should hear both the parties i.e. Respondent No.3 slum dwellers as well as Respondent No.1 developer to ascertain the exact amount of arrears. The Respondent No.1 has completed substantial rehabilitation of eligible slum dwellers. Only few slum dwellers are yet to be rehabilitated. There is copy of report of IIT Powai dated 15.07.2021. In concluding portion of the said report, there are 8 recommendations in respect of repair to be carried out. It is argued on behalf of Respondent No.1 that they are ready to carry out repair as per report of IIT Powai. But it is the non-cooperative members, who are not allowing them to carry out the repairing work. On the other hand according to Respondent No.2 they have time to time requested the Respondent No.1 for repair but no steps are taken by Respondent No.1. It is submitted on behalf of Respondent No.1 that let the Respondent No.2 appoint a Competent Agency to carry out the repairs as per the IIT report and they will pay the repairing cost to said agency.

Considering the substantial rehabilitation made by the Respondent No.1 and the willingness they have expressed for carrying out repair, this Authority is of view that it will not be just and proper to terminate the Respondent No.1 as developer. Accordingly the following order is passed.

ORDER

The proceedings are disposed of as under:

1. The Assistant Registrar (Eastern Suburb)/SRA is directed to call the concerned slum dwellers as well as developer and after hearing both parties to ascertain exact amount of arrears of rent.



2. The Respondent No.1 i.e. M/s. Gagangiri Enterprises is directed to deposit the amount of arrears of rent so determined by Assistant Registrar (Eastern Suburb)/SRA in 4 equal monthly installments with this Authority from the date of order.
3. The Stop Work Notice dated 23.07.2021 hereby stands withdrawn.
4. The Respondent No.2 Society is directed to appoint Competent Agency to carry out the repairs as per IIT Powai report.
5. The Respondent No.2 Society is further directed to submit the estimated cost along with details to Executive Engineer/SRA.
6. On submission of estimate cost along with details the Respondent No.1 shall transfer the said amount in bank account of said Agency as per progress in repairing work.
7. The Executive Engineer to supervise the repairing work by periodical visits.

Place: - Mumbai

Date: - 18 JUL 2023


Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO Order/Kurla Mahananda Nagar SRA CHS/38/2023

Date:

Copy to: 18 JUL 2023

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(x) Shri. Nimesh Himatlal Gandhi
Mahananda Nagar, Bhimaji Buwa Chawl,
New Mill Road, Kurla (West),
Mumbai - 400 070

4. Dy. Chief Engineer/SRA
5. Executive Engineer (L Ward)/SRA
6. Tahasildar-2/SRA
7. Financial Controller/SRA
8. Assistant Registrar (Eastern)/SRA
- ✓ 9. Information Technology Officer/SRA
10. Chief Legal Consultant/SRA

