

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

File No. SRA/ENG/1683/ME/STGL/LOI

1. Jeevan Sangram SRA CHS
CTS No. 27A and 27B, Near M.S. Building No.21,
Chembur Colony, Mauje Wadhavali,
Taluka Kurla, Chembur,
Mumbai-400 074.

2. Shraddha Saburi SRA CHS
CTS No. 27A 27B,
Mauje Wadhavali,
Taluka Kurla, Chembur,
Mumbai - 400 074.

... Applicants

V/s

1. M/s. Gurunanak Construction
901, "Sapphire", SV Road,
1st Road Corner, Khar (West)
Mumbai - 400 052.

2. Mr. Ketan Musale of M/s. Dot Architect
Ground Floor, Sharada Sangeet Vidyalay,
M.K. Marg, Kala Nagar, Bandra (East),
Mumbai - 400 051.



... Respondents

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

ORDER

(Passed on- 11/7/2023)

These proceedings are initiated in respect of Slum Rehabilitation Scheme for Jeevan Sangram SRA CHS and Shraddha Saburi SRA CHS of Village Wadhavali on account of inordinate delay and nonperformance on the part of Respondent No.1 developer.

Hereinafter the abovesaid scheme is referred to and called as "subject SR Scheme". In brief the facts which lead to the present proceedings are as under;

BRIEF FACTS:

That the slum dwellers residing on land CTS No. 27A(pt.), New CTS No. 502, admeasuring 8767.30 sq. mtrs. formed two societies i.e. Jeevan Sangram SRA CHS and Shraddha Saburi SRA CHS and in General Body Meeting resolved to redevelop the said land by implementing the Slum Rehabilitation Scheme. The Applicant societies appointed Respondent No.1 as Developer and Respondent No.2 as Architect for redevelopment. Pursuant to appointment the Respondent No.1 submitted proposal of subject SR Scheme to Slum Rehabilitation Authority on land admeasuring 8,767.30 sq. mtrs. The said land is owned by State Government and the slum situated thereon is censused slum. The proposal of subject SR Scheme is duly accepted by Slum Rehabilitation Authority on 30.10.2006. There are total 530 slum dwellers. The Competent Authority has issued certified Annexure-II on 27.09.2007 declaring 471 slum dwellers as eligible. Thereafter last revised Letter of Intent was issued on 11.02.2013. The Respondent No.1 has proposed one composite building in subject SR Scheme comprising of 4 wings i.e. A, B, C & D. The Wing 'A' comprise of 338 rehab residential tenements, 99 commercial tenements and 1 residential cum commercial tenement+54 sale tenements and amenities. The building plans for total 507 tenements were approved on 14.07.2010. As per the approved plan the wing 'A' is of 21 floors. The full Commencement Certificate for Wing 'A' was issued on 09.01.2018. At present the construction of Wing 'A' upto 15th floor is completed. However, since 24.03.2017 the construction is totally stopped at site. Since the construction is totally stopped, the Respondent No.1 has also stopped the payment of rent to slum dwellers. Both Applicants submitted representations to Slum Rehabilitation Authority alleging that there is inordinate delay and



nonperformance on the part of developer and the Respondent No.1 should be terminated as developer of subject SR Scheme.

Pursuant thereto the show cause notice was issued to concern parties. The matter was heard on 16.06.2023. On said day Advocate Shri. Rohit Jain appeared on behalf of Applicant Societies. Advocate Shri. Prayog Joshi remain present for Respondent No.1. Both the parties were heard and the matter was closed for order. Directions were given to parties to submit their written submissions within two days.

ARGUMENT OF APPLICANTS

According to Applicants they have vacated their slum structures in the year 2007. It was agreed by Respondent No.1 that they will complete the construction of rehab within 18 months and on their failure to complete the same they will pay the rent at double rate. But even after lapse of 11 years they have failed to complete the construction. As on today rehab building upto 15th floor is constructed and construction is incomplete. The developer has also failed to pay rent to slum dwellers. The work at site is totally stopped. It appears that the developer is not willing to complete the construction. The office bearers of Applicants visited the office of Respondent No.1 and requested to complete the rehab building, but there is no response. The slum dwellers are facing grave financial problems and some of the slum dwellers have attempted to commit suicide.

In written submission dated 21.06.2023, the Applicants have stated that due to status quo order of Directorate of Enforcement they have filed Writ Petition No.3971 of 2021 in which the Hon'ble High Court has passed an order dated 25.04.2023 confirming the status quo order passed by the Directorate of Enforcement has been vacated. It is further version of Applicant that they have appointed M/s. Vensco Projects LLP as new developer to implement the subject SR Scheme and they have also paid transit rent of six months and agreed to pay



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further rent to them. On these grounds the Applicants have prayed for termination of Respondent No.1 as developer of subject SR Scheme.

ARGUMENT OF RESPONDENT NO.1

According to Respondent No.1, the subject SR Scheme is very large. So they entered into MOU dated 22.12.2010 with Golden Beach Hotels and Resorts Pvt. Ltd. a group company of Dheeraj Realty (hereinafter referred as "GBPL"). As per said MOU, the GBPL was supposed to complete the construction at its own costs and expenses. The sale proceeds from free sale component were to be shared in the ratio of 60 % to GBPL and 40% to M/s. Gurunanak Construction. The GBPL was supposed to complete the entire scheme within 24 to 36 months. But GBPL failed to complete the scheme even after lapse of 11 years. In the year 2018 the news of financial irregularities in DHFL was published and since then GBPL stopped paying rent to slum dwellers. GBPL also communicated them of their inability to complete the said project. Further in October 2019 they came to know that the GBPL has secured loan of Rs.543 Crores by creating charge/mortgage of the said project. It was fraud played by GBPL on them. For securing loan the GBPL has also created false and fabricated documents. The said loan is secured by GBPL for Kanitha Real Estate Pvt. Ltd. The Respondent No.1 had no business dealing with Kanitha Real Estate Pvt. Ltd. Further it is alleged that whatever decision the Slum Rehabilitation Authority will take for betterment of slum dwellers is acceptable to them.

There is letter of Respondent No.1 dated 15.06.2023 on record. In said letter, the Respondent No.1 has stated that they have no financial resources and considering the hardship to the slum dwellers, they have no option but to exit from subject SR Scheme in the interest of slum dwellers.



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ISSUES

From the facts and circumstances on record the issue that arise for determination of this Authority is as to whether there is inordinate delay and nonperformance on the part of Respondent No.1.

REASON

It is admitted fact that the proposal of subject SR Scheme is accepted by Slum Rehabilitation Authority on 30.10.2006. Since then the period of more than 13 years has passed. Still the Respondent No.1 has failed to rehabilitate the single slum dweller. It has also sufficiently come on record that since 24.03.2017 the construction work at site is totally stopped. There is report of Executive Engineer/SRA dated 30.08.2019 on record. From said report it appears that the Respondent No.1 has proposed one composite building comprising of 4 Wings i.e. A, B, C & D. The Wing 'A' for 338 rehab tenements + 99 commercial tenements + 1 residential cum commercial tenement and 54 sale tenements and amenities. As per approved plan the Wing 'A' is of 21 floors. At present Wing 'A' is constructed upto 15th floor and construction is incomplete. As stated hereinabove the construction activity at site is totally stopped since 24.03.2017.

It is needless to state that the SR Scheme is social welfare measure undertaken by Government of Maharashtra with a object to improve the living conditions of poor slum dwellers residing in unhygienic condition since several years. The developers implementing the SR Scheme are expected to complete the schemes within reasonable period. In present case the period of more than 13 years has passed since acceptance of scheme. Obviously there is inordinate delay and nonperformance on the part of Respondent No.1. The Slum Rehabilitation Authority being a Planning and Project Management Authority cannot be a mute spectator to such nonperformance and inordinate delay. This Authority is under the statutory obligation to see



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that the eligible slum dwellers are duly rehabilitated within reasonable period.

In present case the Respondent No.1 has alleged that the subject SR Scheme is very large and they had entered into MOU dated 22.12.2010 with one Golden Beach Hotels and Resorts Pvt. Ltd. (Group Company of Dheeraj Realty). As per said MOU the GBPL was supposed to complete the scheme at its own costs and expenses. The sale proceeds from free sale components were to be shared in the ratio of 60% to GBPL and 40% to M/s. Gurunanak Construction. However in the year 2018 there was news of financial irregularities in DHFL and since then the GBPL stopped paying rent to slum dwellers. It is further version of Respondent No.1 that in October 2019 they came to know that the GBPL has secured loan of Rs.543 Crores from DHFL by creating charge/mortgage over the subject SR Scheme. The said loan is availed by GBPL in the name of another company Kanitha Real Estate Pvt. Ltd. For securing loan the GBPL has also created false and fabricated documents. The GBPL has played fraud upon them. In letter dated 20.11.2020 the Respondent No.1 has clearly stated that whatever decision this Authority will take for betterment of slum dwellers is acceptable to them. It is also admitted that due to lack of funds they are not in position to complete the remaining construction work.

In the light of above version of Respondent No.1 this Authority has no hesitation to conclude that the Respondent No.1 is not capable to complete the subject SR Scheme. In order dated 07.02.2013 in Appeal from Order No. 1019 of 2010 M/s. Ravi Ashish Land Developers V/s. Prakash Kamble & Anr., the Hon'ble High Court has observed that it is the duty of Slum Rehabilitation Authority to take appropriate steps in the event of delay on the part of developer. The relevant observations are reproduced as it is;

"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."

In the light of these facts and circumstances this Authority has come to conclusion that the Respondent No. 1 liable to be terminated as developer in the subject SR Scheme. Further this Authority is of the view that whatever transaction is made by Respondent No.1 with GBPL, the Slum Rehabilitation Authority has no concern with the same. The Slum Rehabilitation Authority is not privy to alleged MOU between Respondent No.1 and GBPL. Moreover the land under the subject SR Scheme is public land owned by Government. The SR Scheme is incentive FSI based scheme. The developer is entitle to sale FSI proportionate to the rehabilitation FSI. In present case the Respondent No.1 has not completed the rehab component. So the alleged charge/mortgage created by GBPL on subject SR Scheme or land is totally illegal and no any financial institution will be entitle to put forth any claim on the basis of those illegal documents.

It will be just and proper to mention at this stage that this Authority has received a letter dated 29.05.2020 from Assistant Director, Directorate of Enforcement. Through said letter the Directorate of Enforcement has requested this Authority to maintain status quo in


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respect of subject SR Scheme stating that they are conducting investigation under the Prevention of Money Laundering Act against M/s. DHFL and its associates. Pursuant to the letters from both Applicant societies the Deputy Chief Engineer through letters dated 30.12.2020 and 15.01.2021 informed the Assistant Director, Directorate of Enforcement to clarify the situation by taking into account pathetic condition of slum dwellers. The Directorate of Enforcement has given no objection for lifting of status quo provided DHFL and M/s. Maveric Realty & Developers LLP reach to an amicable settlement. The Applicant societies in their letters dated 20.11.2020 & 24.12.2020 have requested that M/s. Maveric Realty & Developers LLP should be appointed as new developer. Further the Assistant Director has expressed the view that the decision should be taken in interest of slum dwellers/ affected parties.

Pursuant to the letter of Assistant Director, Directorate of Enforcement dated 21.01.2021 this Authority had passed order dated 02.03.2021. Before passing order by way of precaution a letter dated 24.02.2021 was forwarded to Directorate of Enforcement stating that this Authority is in process of issuing necessary order for change of Developer. The order was issued on 02.03.2021 at about 3.30 p.m. and copy of the same was marked to Directorate of Enforcement for information. On same day i.e. 02.03.2021 at about 6.37 p.m. an email was received from Assistant Director, Directorate of Enforcement stating that the NOC dated 21.01.2021 issued by their office may be treated as withdrawn. In response to the said email this Authority on same day revoked the said order. Further this Authority passed order dated 24.02.2023 and the proceedings were disposed of with direction that fresh appropriate proceedings should be initiated as and when the investigation of Directorate of Enforcement is completed.

Thereafter, in Writ Petition No.3971 of 2021 Ramesh Devrao Sarode & Ors. V/s The State of Maharashtra & Ors., the Directorate of



Enforcement has filed affidavit. In para no. 5 & 6 of affidavit, the Directorate of Enforcement clarified that it has vacated the status quo and any project developed would be subject to Directorate of Enforcement proceedings. Further, it is stated that the Directorate of Enforcement should be kept informed. Pursuant to the said order dated 25.04.2023 the file was reopened. Notices were issued to all concern parties and parties are heard on 16.06.2023. The Respondent No.1 Developer has submitted letter dated 15.06.2023 under the signature of partners stating that they are financially not capable of implementing the subject SR Scheme and considering the hardship faced by the slum dwellers, they have no option but to exit from the subject SR Scheme. On behalf of Applicants it is submitted that the subject SR Scheme is already delayed and the Respondent No.1 Developer should be terminated for non performance. The Applicant societies have requested in earlier letters to appoint M/s. Maveric Realty & Developers LLP as new developer. For appointment of new developer the Applicant societies should conduct General Body Meeting in accordance with rules, regulations of Slum Rehabilitation Authority. So, it will not be proper to pass any order in that regard at this juncture. Considering the delay that has occurred and non performance on the part of Respondent No.1, this Authority proceeds further to pass following order.

ORDER

The proceedings are disposed of as under;

1. The appointment of Respondent No.1 i.e. M/s. Gurunanak Construction in respect of subject SR Scheme i.e. SR Scheme on land CTS No. 27A (pt.), New CTS No. 502 of Village Wadhavali for "Jeevan Sangram SRA CHS & Shraddha Saburi SRA CHS" hereby stands terminated.



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2. The Applicant societies are at liberty to appoint new developer of their choice in accordance with rules, regulations and policy of Slum Rehabilitation Authority.
3. The Executive Engineer/SRA is directed to appoint Government approved valuer to assess the amount spent by Respondent No.1 for construction and other expenses in respect of subject SR Scheme.
4. The new incoming developer shall deposit the amount determined by Government approved valuer with Slum Rehabilitation Authority and the decision about the said amount shall be taken in consultation with Directorate of Enforcement.
5. The copy of this order be forwarded to Directorate of Enforcement for information.

Place: - Mumbai

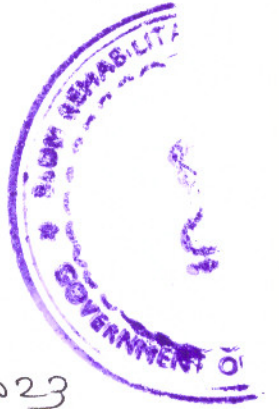
Date: - 11 JUL 2023

Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO/13(2)/Jeevan Sangram SRA CHS/37/2023
Date: - 11 JUL 2023

CC to,

1. Jeevan Sangram SRA CHS
CTS No. 27A and 27B, Near M.S. Building No.21,
Chembur Colony, Mauje Wadhavali,
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4. Mr. Ketan Musale of M/s. Dot Architect
Ground Floor, Sharada SangeetVidyalay,
M.K. Marg, Kala Nagar, Bandra (East),
Mumbai-400 051.
5. Assistant Director, Directorate of Enforcement
Mumbai Zonal Office-1,



Kaiser-I-Hind Building,
4th Floor, Currimbhoy Road,
Ballard Estate, Mumbai 400 001

6. Dy. Chief Engineer/SRA
7. Executive Engineer (M/E Ward)/SRA
8. Deputy Collector (Eastern Suburbs)/SRA
9. Joint Registrar C.S. (Eastern Suburbs)/SRA
10. CLC/SRA
11. ☒ Officer/SRA

