



SLUM REHABILITATION AUTHORITY

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

File No. K-W/STGOVT/0051/20190723

Shivswarajya SRA CHS (Prop.)
Anibai Chawl, Ganesh Nagar,
Scout Camp Road, Behrambaug,
Jogeshwari (West), Mumbai - 400 102

V/s

... Applicant

1. M/s. Lashkaria Housing & Infrastructure Pvt. Ltd.
102, Diamond Apartment,
New Tecweb Center, New Link Road,
Jogeshwari (East), Mumbai - 400 102

2. M/s. Setsquare Project Consultants
1/308, Yogeshwar CHS, N.M. Joshi Marg,
Lower Parel (East), Mumbai - 400 013



... Respondents

ORDER

(Passed on - 12/9/2023)

The present proceedings are initiated pursuant to application of Applicant dated 21.12.2022 in respect of Slum Rehabilitation Scheme on land CTS No.82(pt), 85(pt), 86(pt), 89(pt), 104(pt) & 105(pt) of Village Oshiwara, Taluka – Andheri, Behram Baug, Link Road, Jogeshwari (West), Mumbai - 400 102 for “Shivswarajya SRA CHS (Prop.)”. Hereinafter the abovesaid Slum 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 slum dwellers residing on plot of land bearing CTS No.82(pt), 85(pt), 86(pt), 89(pt), 104(pt) & 105(pt) of Village Oshiwara, Taluka – Andheri, Behram Baug, Link Road, Jogeshwari (West), Mumbai - 400 102 have formed Shivswarajya SRA CHS (Prop.) and resolved to redevelop the land in their occupation by implementing the Slum Rehabilitation Scheme. Accordingly

Applicant passed resolution and appointed Respondent No.1 as Developer and Respondent No.2 as Architect for redevelopment. Pursuant to their appointment, the Respondent No.1 submitted proposal of subject SR Scheme to Slum Rehabilitation Authority and it was duly accepted on 25.07.2019. The land under the subject SR Scheme is admeasuring 2533.50 sq. mtrs. owned by State Government. Thereafter, no further permission is issued to subject SR Scheme and the scheme is stand still.

Due to inordinate delay in implementation of subject SR Scheme, the Applicant submitted application dated 21.12.2022 for termination of Respondent No.1 as Developer. Pursuant to said application a note dated 21.12.2022 was submitted by Tahasildar-1/SRA for initiating action u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 and accordingly notices were issued to the concern parties and the matter was heard on various dates. Lastly the matter was heard on 31.03.2023. On said day representatives of Applicant Society remain present. Advocate Chirag Thakkar remain present on behalf of Respondent No.1. Parties were heard at length and matter was closed for order. Directions were given to parties to submit their written submission within 7 days.

ARGUMENT OF APPLICANT SOCIETY

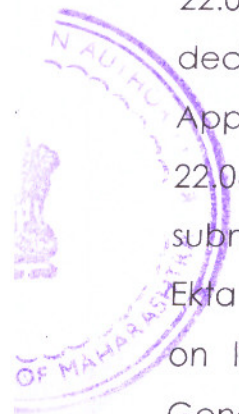
According to Applicant, they are the occupants of land bearing CTS No.82(pt), 85(pt), 86(pt), 89(pt), 104(pt) and 105(pt) of Village Oshiwara. It is further version of Applicant that larger property bearing land CTS Nos.48, 60 to 68, 71 to 83, 83(pt), 84 to 86, 87(pt), 88, 89, 104 to 107, 294 and 295 of Village Oshiwara was affected by Playground reservation in Development Plan and could not be developed due to order of Hon'ble High Court dated 31.07.2002 in Writ Petition No.1152 of 2002 filed by Citispace & Ors. V/s. State of Maharashtra & Ors. The occupants on land CTS Nos.48, 60 to 68, 71 to 83, 83(pt), 84 to 86, 87(pt), 88, 89, 104 to 107, 294 and 295 of Village Oshiwara have formed Shiv Swaraj Ekta Sahakari Gruhnirman Sanstha (Prop.) and due to deplorable conditions on said larger property through General Body Resolution dated 22.03.2015 they have decided to implement SR Scheme under Regulation 33(10) of DCR, 1991. In said General Body Meeting dated



22.03.2015 resolution is also passed for declaration of said larger property as Slum and to process the application for acquisition. It is alleged by the Applicant that in said General Body Meeting, the Developer and Architect were not appointed and same was kept blank in the resolution. According to Applicant there are around 680 structures on larger property and out of 680 slum dwellers, 350 slum dwellers signed the said resolution which is less than 70%. The preliminary object of said meeting was to oppose Playground reservation in Development Plan and implementation of SR Scheme for applicant.

According to Applicant said General Body Resolution dated 22.03.2015 was first tampered by Respondent No.1 and the name of Respondent No.2 was inserted as Architect which was originally kept blank. Further the name of society was also tampered and shown as Shiv Swarajya Sahakari Gruhnirman Sanstha (Prop). Apart from this, the names of Committee members were also changed in said resolution. Thereafter, the said General Body Resolution dated 22.03.2015 was once again tampered and the name of original society was kept unchanged i.e. Shiv Swaraj Ekta Sahakari Gruhnirman Sanstha (Prop.) but name of Respondent No.1 was inserted as developer. Further some members of Committee members were also changed in said resolution. In addition to aforesaid tempering the said General Body Resolution dated 22.03.2015 was further tempered to increase the number of signatures of slum dwellers present in the said General Body Meeting held on 22.03.2015 and number of signatures were shown around 555 slum dwellers.

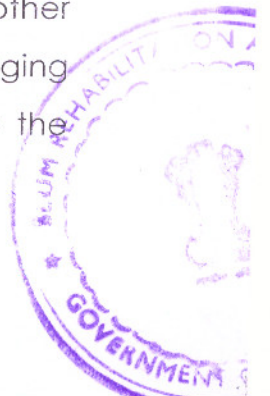
It is the case of Applicant that the General Body Resolution dated 22.03.2015 is manipulated. According to Applicant the larger property is declared as Slum Rehabilitation Area through order dated 14.10.2015 on the Application of Shiv Swaraj Ekta Sahakari Gruhnirman Sanstha (Prop.) dated 22.06.2015. The Shiv Swaraj Ekta Sahakari Gruhnirman Sanstha (Prop.) has also submitted proposal for acquisition on 09.10.2015. The proposal of Shiv Swaraj Ekta Sahakari Gruhnirman Sanstha (Prop.) for implementation of SR Scheme on larger property was also submitted on 31.10.2015. Through another General Body Meeting dated 21.02.2016 a resolution is passed by Shiv Swaraj



Ekta Sahakari Gruhnirman Sanstha (Prop.) for subdivision of two proposed societies i.e. Shiv Swaraj Gruhnirman Sanstha (Prop.) and Shiv Sai Sahakari Gruhnirman Sanstha (Prop.). The Applicant society is formed on the basis of General Body Meeting dated 21.02.2016 and before that same was not in existence. According to Applicant the common consents obtained by Respondent No.1 dated 29.03.2015 is prior to their appointment as developer.

It is alleged by the Applicant that the alleged General Body Meeting was held on 27.12.2015 is the part of proposal on larger property and land acquisition proposal of Shiv Swaraj Ekta Sahakari Gruhnirman Sanstha (Prop.). The Applicant further stated that in reports dated 25.04.2018 & 07.06.2018 of Co-operative department of SRA it is mentioned that through alleged General Body Resolution dated 27.12.2015 the Shiv Swaraj Sahakari Gruhnirman Sanstha (Prop.) has appointed Respondent No.1 as developer for subject SR Scheme. There is scrutiny report dated 28.03.2018 on record wherein the Assistant Registrar has concluded that Shiv Swaraj Sahakari Sanstha (Prop.) has not taken General Body Meeting of slum dwellers independently for subject SR Scheme. A complaint was submitted under the signatures of 261 slum dwellers regarding fabrication of the original General Body Resolution dated 27.12.2015 was lodged to this Authority. Accordingly through report dated 15.02.2023 the Assistant Registrar/SRA has concluded that at the time of submission of SR Scheme by Respondent No.1 there are many discrepancies found in said General Body Resolution.

It is the version of Applicant that there are irregularities while submitting the subject SR Scheme by Respondent No.1. So, due to such irregularities and inordinate delay on the part of Respondent No.1 the Applicant society called General Body Meeting on 02.10.2022 and passed resolution for termination of appointment of Respondent No.1. In said General Body Meeting, another resolution is passed by slum dwellers for appointment of new Managing Committee. On these grounds the Applicant has prayed to terminate the appointment of Respondent No.1 as developer.



ARGUMENT OF RESPONDENT NO.1

According to Respondent No.1 the Applicant Society is comprising of 171 slum dwellers and the Applicant Society appointed them in General Body Meeting dated 27.12.2015. On the basis of appointment they have submitted proposal to Slum Rehabilitation Authority and same is accepted on 23.07.2019. The SR Scheme submitted by Applicant is of 3489.50 sq. mtrs. but the DSLR/SRA has given remarks that the proposal can be accepted only for the area of 2533.50 sq. mtrs. acquired by Government of Maharashtra and the same was acceptable to Applicant and they have agreed that the balance area of 956 sq. mtrs. was never part and parcel of SR Scheme of Applicant society.

In the meanwhile some private parties at the instance of rival developer has submitted representations dated 03.03.2021 & 24.02.2021 before this Authority for cancellation of proposal of subject SR Scheme and through order dated 27.01.2022 this Authority has recorded the proposal of subject SR Scheme. The said order was challenged before Hon'ble Apex Grievance Redressal Committee in Application No.59 of 2022. The Hon'ble Apex Grievance Redressal Committee through order dated 01.04.2022 refused to grant interim relief. So, the Writ Petition No.2728 of 2022 was filed before the Hon'ble High Court. The said Writ Petition was disposed of on 06.06.2022 with directions to Apex Grievance Redressal Committee to decide the said Application expeditiously.

Accordingly the Application No.59 of 2022 was heard and through order dated 03.08.2022, the Hon'ble Apex Grievance Redressal Committee set aside the order of this Authority dated 27.01.2022. In spite of the said direction, this Authority failed to issue further permissions to them. It is further version of Respondent No.1 that to again disrupt the subject SR Scheme various private third parties filed Writ Petition (L) No.32576 of 2022 in Hon'ble High Court and there is no interim relief granted. It is further version of Respondent No.1 that during the hearing of the present proceedings they came to know that alleged resolution was passed in General Body Meeting dated 02.10.2022 by some of the disgruntled members for initiating 13(2)



proceedings. The said General Body Resolution dated 02.10.2022 is bogus as the names and signatures are falsely and deceitfully used by some disgruntled members.

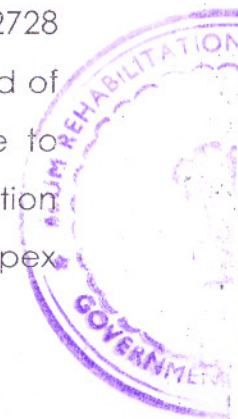
According to Respondent No.1 it is pertinent to note that meetings held on 27.12.2015 and 02.10.2022 the names of 23 slum dwellers are common, so the contention of the Applicant that they were not aware of the General Body Meeting dated 27.12.2015 of appointment of Respondent No.1 is not sustainable. It is further version of Respondent No.1 that through General Body Meeting dated 26.01.2023 they have been once again confirmed their appointment with signatures of 99 slum dwellers which is more than 70%. On these ground Respondent No.1 prayed to drop the present proceeding.

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

Before proceeding to discuss about rival contention, it is necessary to refer to few material facts. The proposal of subject SR Scheme is submitted on 25.07.2019 and developer is M/s. Lashkaria Housing and Infrastructure Pvt. Ltd. There were representations received from the Parsee Vegetarian and Temperance Society and the Zoroastrian Radih Society raising objection to the proposal of Respondent No.1. After hearing the concerned parties this Authority through order dated 27.01.2022 recorded the proposal of subject SR Scheme. The said order was challenged by Applicant before Hon'ble Apex Grievance Redressal Committee in Application No.59 of 2022. The Hon'ble Apex Grievance Redressal Committee through order dated 01.04.2022 refused to grant interim relief. So, the Applicant has filed Writ Petition No.2728 of 2022 before the Hon'ble High Court. The said Writ Petition was disposed of on 06.06.2022 with directions to Apex Grievance Redressal Committee to decide the said Application expeditiously and accordingly the Application No.59 of 2022 was heard and through order dated 03.08.2022, the Apex



Grievance Redressal Committee set aside the order of this Authority dated 27.01.2022.

Further it appears that due to failure of developer, Applicant approached to Slum Rehabilitation Authority for termination of developer. According to Applicant the proposal submitted by Respondent No.1 is on the basis of General Body Resolution dated 22.03.2015 which was manipulated and tampered. It is further version of Applicant that there are irregularities while submitting the subject SR Scheme by Respondent No.1. So, due to such irregularities and inordinate delay on the part of Respondent No.1 the Applicant society called General Body Meeting on 02.10.2022 and passed resolution for termination of appointment of Respondent No.1. In said General Body Meeting, another resolution is passed by slum dwellers for appointment of new Managing Committee. According to Applicant the Scheme is delayed due to nonperformance on the part of Respondent No.1.

As against this the Respondent No.1 stated that they have been appointed as developer on the basis of General Body Resolution dated 27.12.2015. The proposal of subject SR Scheme is accepted on 23.07.2019. It is further version of Respondent No.1 that during the hearing of the present proceedings they came to know that alleged resolution was passed in General Body Meeting dated 02.10.2022 by some of the disgruntled members for initiating 13(2) proceedings. According to Respondent No.1 the said General Body Resolution dated 02.10.2022 is bogus as the names and signatures are falsely and deceitfully used by some disgruntled members. It is further version of Respondent No.1 that again through General Body Meeting dated 26.01.2023 their appointment has been once again confirmed with signatures of 99 slum dwellers which is more than 70%. So, the report of co-operative department of SRA is called. The report of Joint Registrar/SRA dated 22.08.2023 is on record. The report states that in General Body Meetings dated 02.10.2022 the appointment of Respondent No.1 is terminated and M/s. Sahyog Homes Pvt. Ltd. is appointed as new developer and said resolution is valid for period of six months. The report further reveals that during the period of six months, the society called another General Body

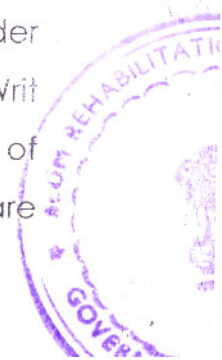


Meeting on 26.01.2023 and thereby confirmed the appointment of Respondent No.1 as developer which is totally bad in law. In both these meetings officers of co-operative department were not present. It has sufficiently come on record that there are two rival groups in society. Since, the General Body Meeting dated 22.10.2022 is confirmed by the Assistant Registrar/SRA, it will be just and proper to consider the resolution passed on 22.10.2022. Even though the proposal of subject SR Scheme is accepted in the year 2019, till date there is absolutely no progress. Even the Annexure-II is also not obtained.

It is needless to state that the developers implementing S.R. Scheme are expected to complete the same within reasonable period. Obviously, there is delay in implementation of subject S.R. Scheme. Such inordinate delay in rehabilitation of slum dwellers is bound to frustrate the basic object of Government in introducing the Slum Rehabilitation Schemes.

As stated hereinabove the developers implementing the S. R. Schemes are expected to complete the same within reasonable period. Due to delay on the part of developer the noble object behind introducing the S.R. Scheme is getting frustrated. This Authority being a Planning and Project Management Authority can't be a mute spectator to such nonperformance. The Slum Rehabilitation Scheme is social welfare scheme for the benefit and advancement of slum dwellers. 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 order dated 01.03.2013 in Writ Petition No.2349 of 2012 M/s. Hi Tech India Construction V/s. Chief Executive Officer/SRA are relevant. In said case the developer was terminated by the Chief Executive Officer/SRA on account of delay of 3 years. The said termination was upheld by High Power Committee. The order of High Power Committee was challenged by developer through said Writ Petition. The Hon'ble High Court upheld the termination. The observation of Hon'ble High Court in para 5 of said order are relevant and same are reproduced as it is for convenience;

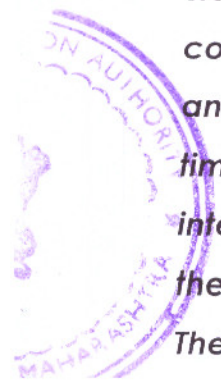


"The mere issuance of the letter dated 15th May, 2008, would not indicate that there was no delay on the part of the petitioners. These are slum rehabilitation schemes. It is for the developers to pursue the matter and to ensure that the scheme is implemented without delay. Developer cannot, by merely addressing letters to the authorities, sit back and contend that they had nothing more to do in the matter till they received a reply."

Bearing in mind the above observation of Hon'ble High Court, this Authority proceeds further to discuss the various grounds putforth by Respondent No.1. It is contended by Respondent No.1 that delay is not attributable to them. The Respondent No.1 is trying to justify the delay by raising various other grounds such as litigation of title, disgruntled slum dwellers of society, rival developer, etc. In fact the Respondent No.1 is expected to give cogent reasons as to how the delay is not attributable to them.

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 and 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. Lashkaria Housing & Infrastructure Pvt. Ltd. is hereby terminated as Developer of S.R. Scheme on land bearing CTS No.82(pt), 85(pt), 86(pt), 89(pt), 104(pt) & 105(pt) of Village Oshiwara, Taluka – Andheri, Behram Baug, Link Road, Jogeshwari (West), Mumbai - 400 102 for "Shivswarajya SRA CHS (Prop.)".
2. The Applicant i.e. Shivswarajya SRA CHS (Prop.) 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 the Maharashtra Slum Areas (I, C & R) Act, 1971.

Place:- Mumbai

Date:- 12 SEP 2023


Chief Executive Officer
Slum Rehabilitation Authority



No.SRA/CEO Order/ Shivswarajya SRA CHS (Prop.)/55 /2023

Date: 12 SEP 2023

Copy to:

1. Shivswarajya SRA CHS (Prop.)
Anibai Chawl, Ganesh Nagar,
Scout Camp Road, Behrambaug,
Jogeshwari (West), Mumbai - 400 102

2. M/s. Lashkaria Housing & Infrastructure Pvt. Ltd.
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Lower Parel (East), Mumbai - 400 013
4. Dy. Chief Engineer/SRA
5. Executive Engineer (K/W Ward)/SRA
6. Tahasildar-2/SRA
7. Financial Controller/SRA
8. Joint Registrar (W.S.)/SRA
9. Information Technology Officer/SRA
- ✓ 10. Chief Legal Consultant/SRA

