



SLUM REHABILITATION AUTHORITY

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

SRA/ENG/1994/FN/ML/LOI

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. Nabi Developers,
C/10, Indralok, Old Nagardas Road,
Andheri (East), Mumbai - 400 069
2. Shri S.P. Kahatramade of M/s. Sankalp Associates,
Architect & Interior Designers,
65, Gangadhar Nivas, Gokhale Road (N),
Dadar, Mumbai - 400 028
3. Panchsheel CHS (Prop.)
CS No.3(pt), 4(pt) & 5(pt)
of Salt Pan Division,
Panchsheel Nagar Seva Sangh No.3,
Near Aanik Agar,
Sion (East), Mumbai - 400 022



... Respondents

ORDER

(Passed on - **5 FEB 2024**)

These Suo Moto proceedings are initiated in respect of Slum Rehabilitation Scheme on land bearing C.S. No.3(pt), 4(pt) & 5(pt) of Salt Pan Division for "Panchsheel CHS (Prop.)" pursuant to note of Executive Engineer (F/N Ward)/SRA dated 14.12.2023. Hereinafter the abovesaid Slum Rehabilitation 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 bearing C.S. No.3(pt), 4(pt) & 5(pt) of Salt Pan Division formed Respondent No.3 society i.e. Panchsheel CHS (Prop.) and resolved to redevelop the land in their occupation by implementing the Slum Rehabilitation Scheme. Accordingly Respondent No.3 society 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 and it was duly accepted on 25.07.2008. The land under the subject SR Scheme admeasuring 37000 sq. mtrs. is owned by MCGM, MHADA & State Government. However thereafter there is absolutely no progress in subject S.R. Scheme and the Scheme is stand still. The slum dwellers who are residing in poor hygienic conditions without basic amenities like drainage, water, road, etc. lost the faith in Respondent No.1.

The record reveals 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.14. 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 for hearing were issued to the concerned parties and matter was heard on 04.01.2024. On said day, Advocate Milind Nar remain present for Respondent No.3 society. Mr. Hemant Shah remain present on behalf of Respondent No.1. The parties were heard at length and matter was closed for order. Directions were given to parties to submit their written submissions within 7 days.



ARGUMENT OF RESPONDENT NO.3 SOCIETY

There is copy of letter dated 27.10.2023 on record. According to Respondent No.3, they have formed proposed society for redevelopment of land in their occupation and accordingly they have passed resolution for appointment of Respondent No.1 as developer. It is further version of Respondent No.3 society that the proposal of subject SR Scheme is duly accepted by this Authority on 25.07.2008. After appointment of Respondent No.1, there is no progress shown in subject SR Scheme, so the Applicant society through Special General Body Resolution dated 17.10.2023 terminated the appointment of Respondent No.1 as developer. It is further version of Respondent No.3 that the Respondent No.1 has issued NOC dated 23.06.2021 stating that they are unable to redevelop the said land, so their appointment may be cancelled and they have also no objection if society appoints new developer.

ISSUES

From facts 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 SR Scheme of Respondent No.3 society.

REASONS

The slum dwellers residing on land bearing bearing C.S. No.3(pt), 4(pt) & 5(pt) of Salt Pan Division formed Respondent No.3 society and appointed Respondent No.1 as developer to implement the SR Scheme on land in its occupation. The proposal of subject SR Scheme of Respondent No.3 is submitted to Slum Rehabilitation Authority and it was duly accepted on 25.07.2008. Thereafter the Respondent No.1 has not taken any steps. Thus the SR Scheme of Respondent No.3 society remain stand still. Though the representative of Respondent No.1 Mr. Hemant Shah remain

present for hearing on 04.01.2023, there is no written submission of developer on record.

The record reveals that in the meanwhile this 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 S.R. Scheme is at Sr. No.14. 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. It is pertinent to note that while quashing the Public Notice dated 20.04.2022, the Hon'ble High Court in order dated 10.01.2023 in para 13 have made following observation:

"13. We make it clear that we have not restricted or constrained the powers of the SRA to take action in accordance with law, where justified. We have only quashed the impugned notice because it is entirely outside the frame of the law and not in accordance with law".

From above observation of Hon'ble High Court, it is crystal clear that the Hon'ble High Court has not restricted or constrained the powers of this authority to take action in accordance with law, where justified. In other words, this Authority is having powers to take action in case of inordinate delay.

The Respondent No.3 society by its Special General Body Meeting dated 17.10.2023 resolved to terminate the appointment of Respondent No.1. There is no progress at all and scheme is stand still. According to Respondent No.3, the Respondent No.1 has issued NOC dated 23.06.2021 stating that they are unable to redevelop the said land, so their appointment may be cancelled and they have no objection if society appoints any developer.

Since appointment of Respondent No.1 in the year 2008, the period of around 15 years has passed but till date no approvals are



obtained by Respondent No.1. Even the Annexure-II is not obtained. There is no progress at all and scheme is stand still. 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. 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."

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 the Resolution passed by society and lack of faith of eligible slum dwellers in Respondent No.1, it will be just and proper to terminate them as developer of subject SR Scheme and direct the Respondent No.3 society to hold General Body Meeting in presence of authorized representative of Co-operative department of Slum Rehabilitation Authority and to take decision with majority in respect of appointment of new developer. Accordingly, this Authority proceeds further to pass following order;

ORDER

1. The appointment of Respondent No.1 i.e. . M/s. Nabi Developers is terminated as developer of subject SR Scheme i.e. SR Scheme on C.S. No.3(pt), 4(pt) & 5(pt) of Salt Pan Division for "Panchsheel CHS (Prop.)"
2. The society i.e. Panchsheel CHS (Prop.) is at liberty to appoint new developer by passing fresh General Body Meeting in presence of authorized officer of Slum Rehabilitation



Authority in accordance with circular no.169 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.
4. The newly appointed developer to comply with the provisions of circular no.210 of Slum Rehabilitation Authority.

Place:- Mumbai

Date:- 5 FEB 2024


Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO Order/ Panchsheel CHS (Prop.)/ 28/2024

Date: 5 FEB 2024

Copy to:

1. M/s. Nabi Developers,
C/10, Indralok, Old Nagardas Road,
Andheri (East), Mumbai - 400 069
2. Shri S.P. Kahatramade of M/s. Sankalp Associates,
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of Salt Pan Division,
Panchsheel Nagar Seva Sangh No.3,
Near Aanik Agar,
Sion (East), Mumbai - 400 022
4. Dy. Chief Engineer/SRA
5. Executive Engineer (F/N Ward)/SRA
6. Deputy Collector (Spl. Cell)/SRA
7. Financial Controller/SRA
8. Assistant Registrar (City)/SRA
9. DDLR/SRA
- ✓ 10. Information Technology Officer/SRA
11. Chief Legal Consultant/SRA