

SLUM REHABILITATION AUTHORITY
BEFORE THE CHIEF EXECUTIVE OFFICER
SLUM REHABILITATION AUTHORITY,
Bandra (East), Mumbai

File No. G-N/MHADA/0146/20220406

Millate Maharashtra SRA CHS(Prop.)
Through Chief Promoter Shri Sajid Ali Qureshi,
F.P.No. 663, TPS-III Mahim Division,
Keshav Wadi, Kapad Bazaar Road,
Mahim (East), Mumbai – 400 016

V/s

1. M/s Prithvi Infra Projects
ShopNo.4, Gokul Accord Thakur Complex,
Kandivali (East), Mumbai – 400 104

2. M/s. Vijay Bahulekar & Associates
A-501, Arunoday SRA CHS,
Tilak Nagar, Chembur, Mumbai – 400 089

3. Millate Maharashtra SRA CHS(Prop.)
Through Chief Promoter Shri. Mustakin Ansari,
F.P.No. 663, TPS-III Mahim Division,
Keshav Wadi, Kapad Bazaar Road,
Mahim (East), Mumbai – 400 016

... Applicant



... Respondents

... Intervener

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

ORDER

(Passed on 2/8/23)

These proceedings are initiated in respect of Slum Rehabilitation Scheme on land F.P. No.663, TPS-III of Mahim Division for "Millate Maharashtra SRA CHS (Prop.)" pursuant to application of Applicant dated 02.01.2023 on account of inordinate delay on the part of Respondent No.1 Developer. Hereinafter the above said Slum

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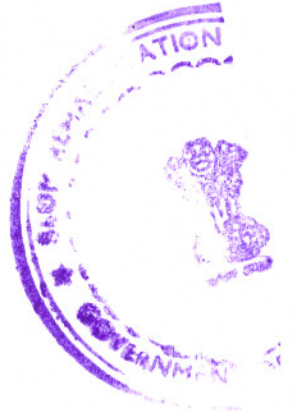
Rehabilitation Scheme is referred to and called as "subject S. R. Scheme". In brief the facts which lead to the present proceedings are as under;


BRIEF FACTS:

The slum dwellers residing on plot of land F.P. No.663, TPS-III of Mahim Division, formed Applicant society i.e. Millate Maharashtra SRA CHS (Prop.) and in General Body Meeting resolved to redevelop the said land by implementing the S.R. Scheme. The Applicant society appointed Respondent No.1 as Developer and Respondent No.2 as Architect for implementation of subject S.R. Scheme. The proposal of subject S.R. Scheme was submitted to Slum Rehabilitation Authority on land admeasuring 1961.55 sq. mtrs. The said land is owned by MCGM. The proposal of subject S.R. Scheme is accepted by Slum Rehabilitation Authority on 08.04.2022.

Due to delay in implementation of the subject S.R. Scheme, the Applicant has submitted application dated 02.01.2023 for termination of appointment of Respondent No.1 as Developer of the subject S. R. Scheme on the basis of General Body Resolution dated 23.12.2022. According to Applicant in the year 2019 they have appointed Respondent No.1 as developer through General Body Resolution. Since the appointment of Respondent No.1, the period of 4 years has passed and no any steps were taken by them. It is further version of Applicant that in the meantime the MCGM has issued notices u/s 89 & 90 of the MRTP Act to the Applicant.

Pursuant to said Application the notices were issued to the concerned parties and hearing was held on 20.03.2023 & 27.04.2023. On 27.04.2023 representatives of Applicant Society remain present along with Advocate Nitesh Acharya. Representative of Respondent No.1 Developer appeared along with Advocate Raj K. Avasthi. Representatives of Intervener remain present Suo-Moto along with Advocate Pritesh Patel. The parties were heard at length and matter




Sd/-
[Signature]

was closed for order. Directions were given to parties to submit their written submissions within seven days.

ARGUMENT OF APPLICANT SOCIETY THROUGH CHIEF PROMOTER SHRI SAJID ALI QURESHI

According to Applicant, occupants on the said land have formed Millate Maharashtra SRA CHS (Prop.) and through General Body Resolution appointed Respondent No.1 as Developer for redevelopment of said land. Pursuant to the appointment, the Respondent No.1 submitted proposal to Slum Rehabilitation Authority and same is accepted on 08.04.2022. Initially the Applicant has submitted application dated 02.01.2023 for termination of appointment of Respondent No.1 as Developer of the subject S.R. Scheme on the ground of inordinate delay of 4 years from the date of appointment.

During the hearing held on 27.04.2023 the Advocate Nitesh Acharya represented the Applicant society. Shri. Sajid Ali Qureshi has submitted written submission of Applicant society on record. According to Applicant Society the alleged letter dated 02.01.2023 and alleged Special General Body Meeting dated 23.12.2022 are false and misleading and their signatures were obtained by rival developer Mr. Bastiram Kacharu Avhad of M/s HRUB Construction LLP under fear and coercion. It is further version of Applicant that the rival developer took advantage of the situation after the Asst. Commissioner G/N Ward, MCGM initiated eviction proceedings u/s 89 & 90 of the MRTP Act on said land for implementing Town Planning Scheme and created fear in the minds of slum dwellers. The Applicant contended that their signatures were taken by the rival builder in fear of being dispossessed from their homes after the eviction notices were served on each of them.

The Applicant stated that the Society's original Register do not contain the above alleged Resolution dated 23.12.2022 but is a part

of new Register which is in custody of said rival builder Bastiram Kacharu Avhad which proves that it is false and fabricated document. According to Applicant Society to protect their interest Respondent No.1 appointed Advocates on their behalf to represent them before Municipal Corporation and also filed Writ Petitions on their behalf before Hon'ble Bombay High Court at their own cost. There is order dated 20.12.2022 in Writ Petition (St.) No.39608 of 2022 passed by Hon'ble High Court wherein protection is granted from eviction proceedings which is continued till date. The Applicant further contended that the office bearers and other members have executed Affidavits on oath placing on record the fraud played by rival builder Bastiram Kacharu Avhad of M/s HRUB Construction LLP.

According to Applicant, the Respondent No.1 is co-operating with them and the complaint filed by them under uncertainty and coercion should be dismissed. On these grounds the Applicant has prayed to drop the present proceedings initiated against Respondent No.1 and grant further permissions to Respondent No.1 for completion of the subject S.R. Scheme.

ARGUMENT OF RESPONDENT NO.1 (DEVELOPER)

According to Respondent No.1 they have been appointed by Applicant society through passing General Body Resolution dated 30.10.2019. Pursuant to appointment they submitted their proposal to this Authority and same is accepted on 08.04.2022. According to Respondent No.1 the allegations raised in letter dated 02.01.2023 is false and frivolous and alleged minutes of Special General Body Meeting dated 23.12.2022 is illegal, null & void as it is passed by misleading and concealing the relevant and necessary facts from the Applicant Society with ulterior motive to cause grave loss and harm to them. The Respondent No.1 contended that the members of the Applicant Society were in a dilemma after receiving individual eviction notices dated 13.09.2022 from the Asst. Commissioner, G/N



Ward, MCGM u/s 89 of MRTD Act, 1966 for implementing the Town Planning Scheme. According to Respondent No.1 they are totally involved in redevelopment of the said S.R. Scheme and have taken every possible step to safeguard the interest of the Applicant Society. The Respondent No.1 further stated that they have taken the financial burden of the Advocates appointed to appear before the Corporation, challenging said eviction notices and also filed Writ Petition (St.) No.32014 of 2022 before the Hon'ble Bombay High Court which was disposed of through order dated 12.10.2022 r/w speaking to the minutes dated 18.10.2022, with directions to the Corporation to not to take any steps in respect of the eviction notices, till order is passed on the representation. According to Respondent No.1 after the second notice dated 09.11.2022 u/s 90 of the Maharashtra Regional and Town Planning Act, 1966 they filed another Writ Petition (St.) No.39608 of 2022 before Hon'ble Bombay High Court and the same is pending. There is order dated 20.12.2022 wherein the Hon'ble Court has granted protection in favor of the Applicant Society which continues till date.

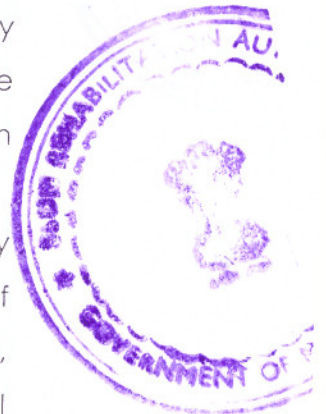
According to Respondent No.1 the General Body Resolution dated 23.12.2022 cannot be relied upon for any purpose as the office bearers and members have executed Affidavits on oath recording the fraud played upon them by rival builder Bastiram Kacharu Avhad of M/s HRUB Constructions LLP for passing the said Resolution. The Respondent No.1 contended that the said M/s HRUB Construction LLP of Bastiram Kacharu Avhad has got himself appointed as Developer in the alleged Special General Body Meeting dated 23.12.2022 without following due process of law. According to Respondent No.1 there is no delay in implementing the said S.R. Scheme as it is accepted on 08.04.2022 and after that they are taking every possible step at their cost to protect the Applicant Society members from being evicted considering the rights of the members and its serious

consequences on the S.R. Scheme. On these grounds Respondent No.1 has prayed to reject the said Society's Application dated 02.01.2023 and grant further permissions in the subject S.R. Scheme.

ARGUMENT OF INTERVENER THROUGH CHIEF PROMOTER SHRI. MUSTAKIN ANSARI

The Intervener Advocate Pritesh D. Patel submitted that he is authorized to represent and submit the written submission dated 20.04.2023 on behalf of the Intervener Society. It is the version of Intervener that the Applicant Society has been eagerly waiting since 2019 for the implementation of the S.R. Scheme after the appointment of Respondent No.1. According to Intervener, merely the notices issued u/s 89 & 90 of the Maharashtra Regional Town Planning Act, 1966, cannot be a reason for the Respondent No.1 for not obtaining the approvals and permissions as per rules, regulations and norms of Slum Rehabilitation Authority. It is further contended by the Intervener, that there is no progress in implementation of the Scheme except application for approvals to Slum Rehabilitation Authority and payment of scrutiny fees.

According to Intervener, the society through General Body Resolution dated 23.12.2022 terminated the appointment of Respondent No.1 and when they realized that Shri Sajid Ali Qureshi, Chief Promoter had mislead the society so through another General Body Meeting on 23.01.2023 they again passed resolution for termination of Respondent No.1 and appointed new developer for implementation of subject SR Scheme. In said Meeting they also removed Shri. Sajid Ali Qureshi as Committee member and appointed Shri. Muskin Ansari as Chief Promoter. During the hearing held on 20.03.2023, the 20 members of society including Shri. Sajid Ali Qureshi fraudulently and without authority represented themselves a society and supported Respondent No.1. It is pertinent to note that Shri. Sajid Ali Qureshi was present when Respondent No.1 was terminated as



developer and also when new managing committee was constituted. According to Intervener since 2011 Shri. Sajid Ali Qureshi being Chief Promoter appointed 4 developers for subject SR Scheme. On these grounds the appointment of Respondent No.1 need to be terminated.

ISSUES

From rival contentions the issue that arise for determination of this Authority is as to whether there is nonperformance on the part of Respondent No.1 and delay caused in implementation of subject SR Scheme is attributable to Respondent No.1.

REASONS

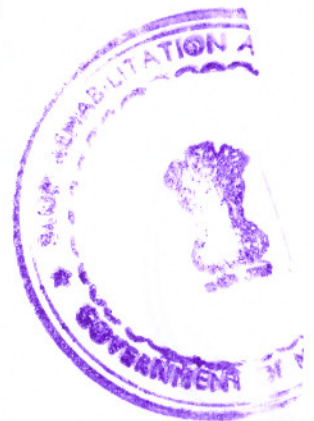
Before proceeding to discuss the rival contentions it is necessary to look into the factual aspects of subject S.R. Scheme. The proposal of subject S. R. Scheme is accepted by this Authority on 08.04.2022 on land bearing F.P. No.663, TPS-III of Mahim Division, area adm. 1961.55 sq. mtrs. The land is owned by MCGM. From the record it reveals that there are two rival groups in the said Society.

Since appointment of Respondent No.1 in the year 2019, the period of around 4 years has passed but till date no approvals are obtained by Respondent No.1. In support of said contention the Respondent No.1 has putforth various grounds. At this juncture it will be just and proper to mention the observation of Hon'ble High Court in respect of delay and timely completion of scheme. 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, the Hon'ble High Court has observed that the mere issuance of letter on the part of developer would not indicate that there was no delay on the part of developer. These are Slum Rehabilitation Schemes and it is for the Developer to pursue the matter and to ensure that the scheme is implemented without delay. For the sake of convenience the para 5 of said order is reproduced as it is;

"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"

Now, it is necessary to verify as to whether there is delay and if it is attributable to Respondent No.1. According to Respondent No.1 there is no delay in implementing the said S. R. Scheme as the subject SR Scheme is accepted on 08.04.2022. The Respondent No.1 contended that the delay in obtaining further permissions is caused only because of legal proceedings initiated against Society after receiving the eviction notices dated 13.09.2022 and 09.11.2022 from the Asst. Commissioner, G/N Ward, MCGM u/s 89 & 90 of MRTP Act, 1966 for implementing the Town Planning Scheme. It is further contended by Respondent No. 1 that they are taking the financial burden of all the legal proceedings before the Corporation and Hon'ble Bombay High Court. The Writ Petition (St) No. 39608 of 2022 is still pending and there is order dated 20.12.2022 wherein protection is granted in favor of the Society which continues till date. The Respondent No.1 contended that they are already in the process of taking further permissions and approvals from the Slum Rehabilitation Authority.

The written submission of Applicant and Intervener are on record. Applicant is represented through Shri. Sajid Ali Qureshi, Chief Promoter by virtue of General Body Resolution dated 23.12.2022. According to Applicant the appointment of Respondent No.1 is terminated by them through General Body Resolution dated 23.12.2022. It is further alleged by the Applicant that the said Resolution is obtained at the instance of rival developer under threat.



The intervener is represented by Shri Muskin Ansari, Chief Promoter by virtue of General Body resolution dated 23.01.2023. In order to verify as to who is the Chief Promoter of Millate Maharashtra SRA CHS, the report of Assistant Registrar/SRA is called. The report of Assistant Registrar/SRA dated 05.06.2023 is on record. The report states that in both the General Body Meetings dated 23.12.2022 & 23.01.2023 the appointment of Respondent No.1 is terminated and M/s. H.R.U.B. is appointed as new developer. The report further reveals that Shri. Muskin Ansari i.e. group represented by Respondent No.3 is appointed as Chief Promoter. In both these meetings officers of co-operative department were not present. So far as the notices issued by MCGM to slum dwellers is concern, it appears that the said action of MCGM is challenged by Millate Maharashtra SRA CHS in Hon'ble High Court through Writ Petition (L) No. 39608 of 2022. The official website of Hon'ble high Court reveals that the interim relief is granted and same is continued till date. The Writ Petition appears to be pending at pre-admission stage.

It has sufficiently come on record that there are two rival groups in society. Since, the new Committee and Chief Promoter are appointed by majority eligible members of society in General Body Meeting dated 23.01.2023, it will be just and proper to consider the contentions of authorized Committee who is intervener in present proceeding. It appears that majority slum dwellers have lost the faith in Respondent No.1. The application dated 02.01.2023 is submitted by Applicant under the signature of Shri. Sajid Ali Qureshi for termination of Respondent No.1.

Considering the Resolution passed by society and lack of faith of majority 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 society to hold General Body Meeting in presence of authorized representatives 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;

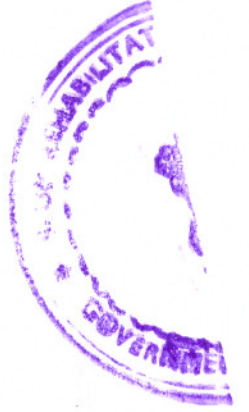
ORDER

1. The appointment of Respondent No.1 i.e. M/s Prithvi Infra Projects is terminated as developer of subject SR Scheme i.e. SR Scheme on F.P. No.663, TPS-III of Mahim Division for Millate Maharashtra SRA CHS(Prop.)
2. The society i.e. Millate Maharashtra SRA CHS(Prop.) is at liberty to appoint new developer by passing fresh General Body Meeting as per rules, regulations and policy of Slum Rehabilitation Authority.

Place: - Mumbai

Date:- 1-2 AUG 2023


Chief Executive Officer
Slum Rehabilitation Authority



No.SRA/CEO/13(2)/Millate Maharashtra SRA CHS(Prop.)/47/2023

Date: 1-2 AUG 2023

Copy to:

1. Millate Maharashtra SRA CHS(Prop.)
Through Chief Promoter Shri Sajid Ali Qureshi,
F.P. No. 663, TPS-III Mahim Division,
Keshav Wadi, Kapad Bazaar Road,
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Tilak Nagar, Chembur, Mumbai – 400 089
4. Millate Maharashtra SRA CHS(Prop.)
Through Chief Promoter Shri. Mustakin Ansari,
F.P.No. 663, TPS-III Mahim Division,
Keshav Wadi, Kapad Bazaar Road,
Mahim (East), Mumbai – 400 016
5. Deputy Chief Engineer/SRA

6. Executive Engineer, G/N/SRA
7. DSLR/SRA
8. Competent Authority-1/SRA
9. Tahsildar-1 /SRA
10. Finance Controller/SRA
11. Chief Legal Consultant/SRA
12. Joint Registrar (City)/SRA
13. IT Officer/SRA

