



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

**File No. SRA/ENG/2084/RC/STGL/LOI
SRA/ENG/142/RC/MTNL/LOI**

Shivaji Nagar Rahiwashi SRA CHS (Prop.)
F.P. No.386, 387 & 389, TPS-III of Village Shimpoli,
Shivaji Nagar, Near Telephone Exchange,
Kastur Park Road, Shimpoli,
Borivali (West), Mumbai - 400 092

... Applicant

V/s

1. M/s. Ramdev Builders & Developers
A-001, Renuja Palace, Near Srusti Bridge,
Shanti Park, Mira Road (East),
Thane - 401 107
2. Shri. Jitendra B. Patel
Ground Floor, Satyanarayan Prasad
Commercial Center, Dyaldas Road,
Vile Parle (East), Mumbai - 400 057



... Respondents

ORDER

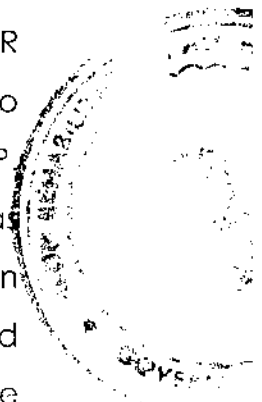
(Passed on - 12 0 MAR 2024)

The present proceedings are initiated pursuant to representation of Applicant dated 07.08.2023 in respect of Slum Rehabilitation Scheme on land bearing F.P. No.386, 387 and 389, TPS-III, Village Shimpoli, Borivali (West), Mumbai for Shivaji Nagar Rahiwashi 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 land F.P. No.386, 387 and 389, TPS-III, Village Shimpoli, Borivali (West), Mumbai have formed Applicant society 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 initially submitted proposal on plot of land bearing F.P. No.389, TPS-III and the same was duly accepted on 28.06.2006. Even the Respondent No.1 submitted proposal on another plot of land bearing F.P. No.386 & 387, TPS-III and the same was duly accepted on 02.12.2008. The land under the subject SR Scheme admeasuring 6773.98 sq. mtrs. is partly owned by State Government, MTNL and private. In respect of land bearing F.P. No.386 & 387, the certified Annexure-II was issued for total 216 number of slum dwellers out of which 77 slum dwellers were held eligible. The record further reveals that the proposal for amalgamation of LOI was approved on 29.06.2017 in respect of subject SR Scheme.

Thereafter, HPC-ACB in Suo Moto proceedings initiated as per the directions of State Government in respect of amalgamation of F.P.389 with F.P. No.386 & 387 recorded the proposal of subject SR Scheme on 21.02.2019 on the ground that Respondent No.1 failed to produce on record authentic ownership documents in respect of F.P. No.387 claimed to be owned by Respondent No.1. The said order was challenged by Respondent No.1 in Hon'ble High Court in Writ Petition No.512 of 2023. The Hon'ble High Court through order dated 07.06.2023 directed the Executive Engineer/SRA to decide the Application of Respondent No.1 dated 23.06.2017 uninfluenced by the observations of HPC-ACB.



The record reveals that, the Executive Engineer/SRA through letter dated 31.07.2023 informed Respondents to process the Annexure-III at the earliest to issue amalgamated LOI of subject SR Scheme. In the meanwhile the Applicant has submitted a letter dated 25.09.2023 on record raising objection to issuance of LOI.

The record further reveals that due to inordinate delay in implementation of subject SR Scheme, the Applicant submitted application dated 07.08.2023 for termination of Respondent No.1 as Developer. Pursuant to said application a note dated 06.11.2023 was submitted by Tahasildar-2/SRA for initiating action u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 and accordingly notices of hearing were issued to the concern parties and the matter was heard on various dates. On 30.01.2024, Advocate Shashank Borade appeared on behalf of Applicant Society. Adv. Nimish Lotihar appeared on Respondent No.1. Heard both of them and matter was closed for order. Directions were given to parties to submit their written submission within 15 days.

ARGUMENT OF APPLICANT SOCIETY

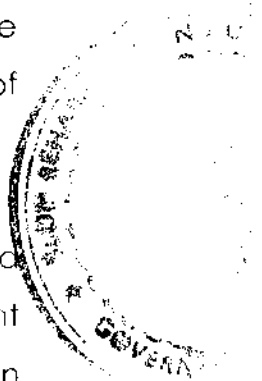
According to Applicant society they have appointed Respondent No.1 as Developer through General Body Resolution dated 27.07.2008. The proposal of subject SR Scheme is duly accepted in the year 2006 & 2008. The Annexure-II is also issued on 22.09.2009. It is further version of Applicant that the Respondent No.1 entered into Joint Venture with Vastu Developers without the consent of the Applicant society which shows that the Respondent No.1 is not in sound financial position. Due to delay on the part of Respondent No.1 for the period of 2008 to 2016, the Applicant has earlier submitted an Application u/s 13(2) of the Slum Act but the same was rejected by the Secretary/SRA through order dated 23.09.2016. The Secretary/SRA has considered the delay due to status quo order of Hon'ble High Court dated 18.03.2010 in Writ Petition No.597 of 2010.

The said status quo order was continued till the withdrawal of Petition on 06.10.2015. It is further version of Applicant that while rejecting the Application u/s 13(2), the Secretary/SRA has directed Respondent No.1 to obtain further approvals such as LOI, IOA, etc.

It is alleged by Applicant that there are criminal as well as civil cases are pending in concerned Court against partners of Respondent No.1. Due to inordinate delay on the part of Respondent No.1 in subject SR Scheme, the Applicant has called General Body Meeting on 22.02.2022 and unanimously decided to terminate the appointment of Respondent No.1. It is further version of Applicant that the Hon'ble HPC-ACB also initiated suo-moto proceedings against Respondent No.1 as per direction of Government in respect of subject SR Scheme. The proposal of subject SR Scheme is recorded by HPC-ACB through order dated 21.02.2019. Since the year 2019 to 2022, the Respondent No.1 failed to take any steps to challenge the said order in the Hon'ble Court. After three years they have challenged the said order in Hon'ble Court through Writ Petition No.512 of 2023 and accordingly the Hon'ble Court through order dated 07.06.2023 has directed SRA to decide the application of Respondent No.1 uninfluenced by the HPC-ACB directions at the earliest. There is delay of almost more than 15 years from the date of acceptance of proposal. Even the directions of Secretary/SRA dated 23.09.2016 are also not complied by Respondent No.1. On these grounds the Applicant has prayed to terminate Respondent No.1 as developer of subject SR Scheme.

ARGUMENT OF RESPONDENT NO.1

According to Respondent No.1 the Applicant has appointed them as developer in the year 2008. It is further version of Respondent No.1 that the Applicant society through General Body Resolution dated 21.06.2017 consented for Joint Venture with Ashapura Ramdev Buildcon LLP. The land bearing F.P. No.386 of TPS-III is owned by



Government, the land bearing F.P. No.387 of TPS-III is owned by private person and F.P. No.389 of TPS-III is owned by MTNL. According to Respondent No.1 land bearing F.P. No.387 is purchased by them through Deed of Conveyance dated 22.12.2008 which was confirmed through registered Deed of Confirmation dated 29.03.2011. The proposal of subject SR Scheme is submitted by Respondent No.1 in the year 2006 and 2008. The Annexure-II is obtained in the year 2009. There was status quo order of Hon'ble High court dated 18.03.2010 in Writ Petition No.597 of 2010 which was vacated in the year 2015. The Applicant has earlier also filed Application u/s 13(2) of the Slum Act and the same was rejected by Secretary/SRA on 22.09.2016. According to Respondent No.1 in respect of land bearing F.P. No.386, a Writ Petition No.2819 of 2016 was filed in Hon'ble High Court and Hon'ble Court through order dated 14.07.2017 dismissed the said Petition on the ground of maintainability. The said order in under challenged before Hon'ble Supreme Court in SLP (C) No.026498 of 2017 and the same is pending till date. In the meanwhile the HPC-ACB through order dated 21.02.2019 recorded the proposal of subject SR Scheme. The said order is challenged by Respondent No.1 in Hon'ble High Court through Writ Petition No.512 of 2023. The Hon'ble Court through order dated 07.06.2023, directed the Slum Rehabilitation Authority to decide the application of Respondent No.1. 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

In order to ascertain as to whether there is delay and nonperformance on the part of Respondent No.1, it is necessary to

look into the record of Engineering Department. The record of engineering department reveals that the proposal of subject SR Scheme is submitted by Respondent No.1. Initially the Respondent No.1 submitted proposal on plot of land bearing F.P. No.389, TPS-III and the same was duly accepted on 28.06.2006. Even the Respondent No.1 submitted proposal on another plot of land bearing F.P. No.386 & 387, TPS-III and the same was duly accepted on 02.12.2008. The land under the subject SR Scheme admeasuring 6773.98 sq. mtrs. is partly owned by State Government, MTNL and private. The record further reveals that the proposal for amalgamation of LOI was approved on 29.06.2017 in respect of subject SR Scheme.

Due to delay on the part of Respondent No.1, earlier in the year 2016, the Applicant has submitted an application for termination of appointment of Respondent No.1 as developer. The said application of Applicant is rejected by the Secretary/SRA through order dated 23.09.2016. The Secretary/SRA has also directed the Respondent No.1 to obtain further approvals such as LOI, IOA, etc.

It is submitted by Applicant that due to failure of Respondent No.1 to implement the scheme, the members of Applicant are languishing in squalid conditions for years together for no fault on their part. The members of Applicant Society have lost the faith in Respondent No.1 and due to it in General Body Meeting dated 22.02.2022 they have passed resolution terminating the Respondent No.1 as Developer of subject SR Scheme.

According to Respondent No.1 the delay is not attributable to them but the same has occurred due to status quo order of Hon'ble High Court dated 18.03.2010 in Writ Petition No.597 of 2010. The said status quo order was continued till the withdrawal of Petition on 06.10.2015. It is further version of Respondent No.1 that the delay since the year 2008 till 2016 is considered by the Secretary/SRA through order dated 23.09.2016. It is further version of Respondent No.1 that



the proposal of subject SR Scheme for amalgamation of Letter of Intent was recorded by HPC-ACB through order dated 21.02.2019. The said order was challenged by them in Hon'ble High Court in Writ Petition No.512 of 2023 and through order dated 07.06.2023 the Hon'ble Court has directed the Executive Engineer/SRA to decide the Application of Respondent No.1 dated 23.06.2017 uninfluenced by the observations of HPC-ACB.

The record reveals that, the Executive Engineer/SRA through letter dated 31.07.2023 has informed Respondents to process the Annexure-III at the earliest to issue amalgamated LOI of subject SR Scheme. In the meanwhile the Applicant has submitted a letter dated 25.09.2023 on record raising objection to issuance of LOI.

The record clearly reveals that there is inordinate delay in implementation of subject SR Scheme. It is further version of Applicant that for last more than 15 years from the date of submission of the scheme, the Respondent No.1 has failed to show any progress in the subject SR Scheme and Respondent No.1 is not in financially sound position to complete the subject SR Scheme. There is absolutely no progress in subject SR Scheme till date. Obviously, there is delay. According to Applicant society the delay is on the part of Respondent No.1. Such inordinate delay in rehabilitation of slum dwellers is bound to frustrate the basic object of Government in introducing the Slum Rehabilitation Schemes. 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.

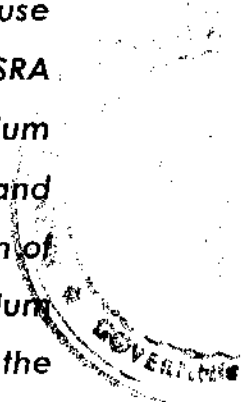
The observation of Hon'ble Supreme Court of India in Civil Appeal No.(s) 18121 of 2017, Susme Builders Pvt. Ltd. V/s. Chief Executive Officer, Slum Rehabilitation Authority & Ors. are relevant. The Supreme Court has categorically held that under Section 13(2) of

the Slums Act, the SRA has an authority to take an action and hand over the development of land to some other agency under three circumstances, one of them being when the development has not taken place within time, if any specified. The Supreme Court in such case had upheld the contention of the slums society, that the petitioner therein had not completed the project within time and hence an action was taken under Section 13(2) of the Slums Act. The Court observed that the action taken by the SRA to remove the petitioner as a developer by cancelling the Letter of Intent (LOI) issued in favour of the petitioner was justified. The relevant observation of Hon'ble High Court are as under:

"48. Otherwise, there would be an anomalous situation where the Society would have terminated its contract with Susme but the letter of intent issued by the SRA would continue to hold the field and it would be entitled to develop the land. The Society approached the SRA, in fact, asking it to take action against Susme. Since the SRA is the authority which issued the letter of intent, it will definitely have the power to cancel the letter of intent"

51. A bare reading of these provisions shows that in terms of clause (c) and (d) of sub-section (3) of Section 3A of the Slum Act, the SRA not only has the power, but it is duty bound to get the slum rehabilitation scheme implemented and to do all such other acts and things as will be necessary for achieving the object of rehabilitation of slums. In this case, the SRA was faced with a situation where the slum dwellers were suffering for more than 25 years and, therefore the action taken by SRA to remove Susme for the unjustified delay was totally justified."

On careful consideration of above facts and circumstances this Authority has come to conclusion that there is inordinate delay and nonperformance on the part of Respondent No.1 in implementation



of subject SR Scheme and they are liable to be terminated as Developer. Accordingly following order is passed.

ORDER

1. The Respondent No.1 i.e. M/s. Ramdev Builder & Developers is hereby terminated as developer of subject SR Scheme i.e. SR Scheme on land bearing F.P. No.386, 387 and 389, TPS-III, Village Shimpoli, Borivali (West), Mumbai for Shivaji Nagar Rahiwashi SRA CHS (Prop).
2. The Applicant society i.e. Shivaji Nagar Rahiwashi SRA CHS (Prop.) is at liberty to appoint new developer of its choice in accordance with rules, regulations 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.
4. The newly appointed developer to comply with the provisions of circular no.210 of Slum Rehabilitation Authority.

Place:- Mumbai

Date:- 29.03.2024


Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO Order/Shivaji Nagar/22/2024

Date: 29.03.2024

Copy to:

1. Shivaji Nagar Rahiwashi SRA CHS (Prop.)
F.P. No.386, 387 & 389, TPS-III of Village Shimpoli,
Shivaji Nagar, Near Telephone Exchange,
Kastur Park Road, Shimpoli,
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2. M/s. Ramdev Builders & Developers
A-001, Renuja Palace, Near Srusti Bridge,
Shanti Park, Mira Road (East),
Thane - 401 107

3. Shri. Jitendra B. Patel
Ground Floor, Salyanarayan Prasad,
Commercial Center, Dyaldas Road,
Vile Parle (East), Mumbai - 400 057
4. Dy. Chief Engineer/SRA
5. Executive Engineer (R/C Ward)/SRA
6. Deputy Collector (Spl. Cell)/SRA
7. Financial Controller/SRA
8. Asst. Registrar (W.S.)/SRA
- ✓ 9. Information Technology Officer/SRA
10. Chief Legal Consultant/SRA

