



SLUM REHABILITATION AUTHORITY

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

File No. SRA/ENG/2073/ME/ML/LOI

Bhimwadi SRA CHS (Prop.)
Bhimwadi Rahivasi Sangh,
Dr. Babasaheb Ambedkar Chowk,
Govandi, Mumbai - 400 043

... Applicant

V/s

1. M/s. Reliable Realtors
24, Dheeraj Heritage, 3rd floor,
S.V. Road, Opp. Milan subway,
Santacruz (West), Mumbai - 400 054
2. M/s. Arch View Associates
Building No. 46/2249,
Suprabhat CHS, Gandhi Nagar,
Near MHADA Office, Bandra (East)
Mumbai - 400 051



... Respondents

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

ORDER

(Passed on 7/12/23)

These proceedings are initiated in respect of Slum Rehabilitation Scheme on land "CTS No.1A (pt) of Village - Deonar for "Bhimwadi SRA CHS (Prop)" pursuant to application of Applicant dated 28.08.2023 on account of inordinate delay and non-payment of rent on the part of Respondent No.1 developer. Hereinafter the above said Slum Rehabilitation Scheme is referred to and called as "subject SR Scheme". In brief the facts which lead to present proceedings are as under;

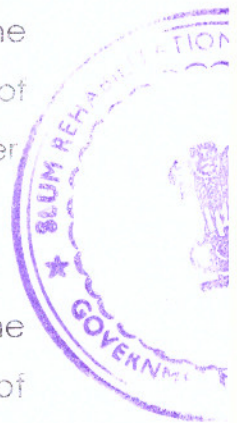
BRIEF FACTS:

The slum dwellers residing on plot of land bearing CTS No.1A (pt) of Village - Deonar, Taluka - Kurla formed Applicant society i.e. "Bhimwadi SRA CHS (Prop.) and in General Body Meeting resolved to redevelop the said land by implementing the Slum Rehabilitation Scheme. The Applicant society appointed Respondent No.1 as Developer and Respondent No.2 as Architect for redevelopment. The proposal of subject SR Scheme was submitted to Slum Rehabilitation Authority on land admeasuring 3241.98 sq. mtrs. The said land is owned by the MCGM. The proposal of subject SR Scheme is duly accepted by Slum Rehabilitation Authority on 14.11.2008. The Competent Authority has issued certified Annexure-II on 10.06.2016 declaring 90 slum dwellers as eligible out of 185 number of slum dwellers. The Letter of Intent was issued on 13.07.2017 and the same was revised on 19.09.2019. Intimation of Approval for rehab building was issued on 26.09.2017 and the same was amended on 23.09.2019. Plinth Commencement Certificate was issued on 10.03.2021. Thereafter, no permissions were issued to the subject SR Scheme and the scheme is stand still. In this regard on Application of the Applicants, the proceedings u/s 13(2) of the Slum Act were initiated against Respondent No.1. Through order dated 04.10.2021, this Authority had rejected the application of Applicant and directed the Respondent No.1 to pay the rent and complete the rehab building as per bar chart submitted by them. Since, the directions were not complied by the Respondent No.1 so the Applicant has submitted application dated 28.08.2023 for removal of Respondent No.1 as developer.

Accordingly, notices of hearing were issued to concerned parties and matter is heard on 10.11.2023. On said day representatives of the Applicant Society remain present. None appeared on behalf of Respondents. Applicant was heard and matter was closed for order. Parties were directed to submit their written submission within 7 days.

ARGUMENT OF APPLICANT SOCIETY

According to Applicant the Respondent No.1 failed to comply the direction of this Authority in order dated 04.10.2021. It is further version of



Applicant that the Respondent No.1 has also failed to pay the transit rent as well as failed to rehabilitate them as per bar chart till December 2023. So, the Applicant Society called General Body Meeting on 15.10.2023. In said meeting the partner of Respondent No.1 Mr. Sadanand Raju Shetty has shown incapability to complete the subject SR Scheme and granted their consent to appoint new developer M/s. Tanishka Reality LLP in their place. The new developer M/s. Tanishka Reality LLP has also agreed to pay the transit rent of 24 months at a time as per circular of SRA. On these grounds the Applicant has prayed to terminate the appointment of Respondent No.1.

CASE OF RESPONDENT NO.1 (DEVELOPER)

Earlier the Respondent No.1 submitted letter dated 22.06.2023 wherein they have stated that they will implement the subject SR Scheme in accordance with DCPR, 2034. The Respondent No.1 further stated that they are willing to rehabilitate the slum dwellers as per the bar chart but due to some unavoidable reasons the delay has occurred.

ISSUES

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

REASONS

It is admitted fact that the proposal of subject SR Scheme is accepted by this Authority on 14.11.2008 and initially M/s. Lakhadawala Developers Pvt. Ltd. was the developer. The proposal is submitted on CTS No.1A (pt) of Village Deonar, admeasuring 3241.98 sq. mtrs. The land is owned by MCGM. The slum situated on said land is censused slum. The record reveals that due to nonperformance on the part of previous developer i.e. M/s. Lakhadawala Developers Pvt. Ltd. the Applicant society terminated them in the year 2014-15 and Respondent No.1 was appointed. Thereafter, the certified Annexure-II is issued by Competent Authority on 10.06.2016 and out of total 185 slum dwellers the 90 slum dwellers are declared eligible for residential purpose. The Letter of Intent

is issued on 13.07.2017 and amended Intimation of Approval for rehab building is issued on 23.09.2019. Lastly, Plinth Commencement Certificate to rehab building is issued on 10.03.2021. Thereafter, there was no progress in subject SR Scheme and the scheme was stand still. The record reveals that due to inordinate delay in implementation of subject SR Scheme the proceeding u/s 13(2) of the Maharashtra Slum Area (I, C & R) Act, 1971 was initiated against Respondent No.1. This Authority through order dated 04.10.2021 directed the Respondent No.1 to pay the balance rent of slum dwellers and to complete the rehab building as per bar chart submitted by them. Since, the Respondent No.1 failed to implement the subject SR Scheme as per the bar chart submitted by them, the Applicant submitted Application dated 28.08.2023 and requested to take action against Respondent No.1.

It is the version of Applicant that the Respondent No.1 has failed to comply the direction of this Authority dated 04.10.2021 and therefore called for General Body Meeting dated 15.10.2023 wherein one of the partner of Respondent No.1, Mr. Sadanand Raju Shetty attended the said Meeting and shown their incapability to implement the subject SR Scheme and granted their consent to appoint new developer M/s. Tanishka Reality LLP in their place. There is copy of letter dated 22.06.2023 of Respondent No.1 on record wherein Respondent No.1 himself has admitted that he had failed to rehabilitate the slum dwellers due to some unavoidable reasons. But Respondent No.1 has failed to explain as to why they could not act as per bar chart submitted by them. There is no any justification on the part of Respondent No.1 forthcoming with regard to compliance of earlier order of this Authority. Even there is no written submission of Respondent No.1 on record. The Respondent No.1 remain absent during the hearing held on 26.08.2022 inspite of issuance of notice of hearing. The conduct of Respondent No.1 indicates that they are not interested in implementing the subject SR Scheme.

There is absolutely no progress in subject SR Scheme till date. During the said period the Respondent No.1 has not rehabilitated a single slum dweller. 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. In this regard the observation of Hon'ble High Court in Writ Petition No.2987 of 2018, M/s. Galaxy Enterprises V/s. State of Maharashtra & Ors. are relevant. The relevant observation of Hon'ble High Court are as under;

"58. In any case the developer cannot be said to possess a vested right which would mandate the SRA to continue it's appointment for such delay and when the body appointing the said developer namely the society itself, in the given set of facts, bonafide and for an acceptable reasons, lacks confidence in the Petitioner as appointed by it. Between the slum society and the developer, it is merely contractual dispute. It cannot be said that the society in adverse circumstances would have no authority in a resolution so passed by the majority to remove a developer. The role of the SRA under law is to further the interest of the slum scheme by exercise of it's powers in the best interest of the slum redevelopment and pass such appropriate orders to achieve the said object, in exercising it's powers inter alia under section 13(2) of the Slums Act."

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 & 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."

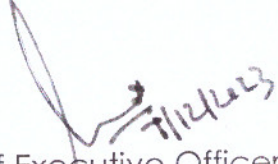
On careful consideration of above facts and circumstances this Authority has come to conclusion that there is inordinate delay and nonperformance on the part of Respondent No.1 in implementation of subject SR Scheme and they are liable to be terminated as Developer. Accordingly following order is passed.

ORDER

1. The Respondent No.1 i.e. M/s. Reliable Realtors is hereby terminated as developer of subject SR Scheme i.e. SR Scheme on land CTS No.1A(pt) of Village – Deonar for "Bhimwadi SRA CHS (Prop)".
2. The Applicant society i.e. Bhimwadi 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 newly appointed developer to reimburse the actual expenses incurred by Respondent No.1 in respect of subject SR Scheme till date as per provisions of section 13(3) of Maharashtra Slum Areas (I,C & R) Act, 1971.

Place: - Mumbai

Date:- 7 DEC 2023


Chief Executive Officer
Slum Rehabilitation Authority

No.SRA/CEO/13 (2)/Bhimwadi SRA CHS 73 / 2023

Date:- 7 DEC 2023

CC to,

1. Bhimwadi CHS (Prop.)
Bhimwadi Rahivasi Sangh, Dr. Babasaheb
Ambedkar Chowk, Govandi, Mumbai - 400 043
2. M/s. Reliable Realtors
24, Dheeraj Heritage, 3rd floor,
S.V. Road, Opp. Milan subway,
Santacruz (West), Mumbai - 400 054
3. M/s. Arch View Associates
Building No. 46/2249,
Suprabhat CHS, Gandhi Nagar,
Near MHADA Office, Bandra (E)
Mumbai- 400 051
4. Dy. Chief Engineer/SRA
5. Executive Engineer (M/E Ward)/SRA
6. Deputy Collector (Special Cell)/SRA
7. Assistant Registrar (E.S.)/SRA
8. CLC/SRA
- ✓ 9. IT Officer/SRA

