



SLUM REHABILITATION AUTHORITY

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

No.SRA/ENG/1314/PS/MHL/LOI

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. Reliance Construction Co.
Aman Group, Juhu Azaad Nagar CHS,
1st Floor, C.D. Barfiwala Marg,
Andheri (West), Mumbai – 400 058
2. M/s. Kahan Archpro Consultants
1403, Ashok Height, Opp. Saraswati Tower,
Nicholas Wadi Lane, Off. Parsi Panchayat Road,
Andheri (East), Mumbai – 400 069
3. Adarsh SRA CHS
CTS No.50A(Pt.), Pahadi Goregaon,
Adarsh Nagar, Teen Dongari,
Goregaon (West), Mumbai – 400 104



... Respondents

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

ORDER

(Passed on 22/12/23)

These Suo Moto proceedings are initiated in respect of Slum Rehabilitation Scheme on land bearing C.T.S. No.50A of Village Pahadi, Goregaon for "Adarsh SRA CHS" pursuant to the direction of Hon'ble Apex Grievance Redressal Committee dated 05.04.2023 in Application No.203 of 2022. Hereinafter the above said Slum 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 bearing C.T.S. No.50A of Village Pahadi, Goregaon have formed Respondent No.3 Society and resolved to redevelop the said land by implementing Slum Rehabilitation Scheme. Initially the Respondent No.3 society appointed one M/s. Kunal Builders & Developers as developer. Due to non-performance and inordinate delay, the said developer was terminated by the Deputy Collector/SRA through order dated 28.09.2016. Thereafter the Respondent No.1 was appointed as developer. The said land is owned by MHADA. However thereafter there is absolutely no progress in subject S. R. Scheme and the Scheme is stand still. Even Annexure-II is not obtained.

The note of Engineering department dated 16.05.2023 is on record. From said note it appears 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.402. The said Public Notice dated 20.04.2022 is challenged by Respondent No.1 before the Hon'ble Apex Grievance Redressal Committee vide Application No.203 of 2022. Thereafter in the light of order passed by Hon'ble High Court dated 10.01.2023 in Writ Petition (L) No.14017 of 2022, Nipun Thakkar V/s. Chief Executive Officer/SRA & Anr., the Apex Grievance Redressal Committee pleased to pass an order on 05.04.2023 and set aside the Public Notice dated 20.04.2022 to the extent of Sr. No.402 in respect of subject SR Scheme. The Hon'ble Apex Grievance Redressal Committee has also directed this Authority to take action in accordance with law in respect of subject SR Scheme.

Pursuant to said note, the notice for hearing was issued and matter was heard on 12.06.2023 and 08.08.2023. On 08.08.2023, Mr. Tulshiram Jadhav, Chief Promoter of Respondent No.3 society remain present alongwith Adv. Arun Panickar None for Respondent No.1



present. Respondent No.3 was heard at length and matter was closed for order. Directions were given to parties to submit their written submissions within 7 days. In spite of directions the Respondents failed to submit their written submissions on record.

CASE OF RESPONDENT NO.1

There is copy of letter dated 21.07.2023 on record. It is the version of Respondent No.1 that they are appointed as developer for implementing subject SR Scheme for Respondent No.3 society. It is further version of Respondent No.1 that on adjoining plot the SR Scheme is implemented by one M/s. Royal Netra Constructions Pvt. Ltd. The said developer is approached to them to merged subject SR Scheme with their SR Scheme. So, in the interest of the slum dwellers they have granted their consent for removal of their appointment from subject SR Scheme. The Respondent No.1 further stated that in the event M/s. Royal Netra Constructions Pvt. Ltd. fails to implement the subject SR Scheme then they will be allowed to implement the same.

CASE OF RESPONDENT NO.3

The copy of order of Hon'ble Apex Grievance Redressal Committee dated 05.04.2023 in Application No.203 of 2022 is on record. It is the version of Respondent No.3 that initially in the year 2006 they appointed one M/s Kunal Builders as developer to implement SR Scheme on land in their occupation. The appointment of said developer was terminated by Deputy Collector/SRA through order dated 28.09.2016 and liberty was granted to Respondent No.3 to appoint new developer. Accordingly they appointed Respondent No.1 as developer in the year 2016 and since then no permissions were issued. Even the Respondent No.1 failed to obtain Annexure-II of subject SR Scheme. Through letter dated 07.03.2022 the Respondent No.3 has also requested this Authority to terminate the appointment of Respondent No.1 and prayed to appoint new developer. It is further version of Respondent No.3 that, In the meanwhile the Slum Rehabilitation Authority through Public Notice dated 20.04.2022 rightly

recorded the proposal of subject SR Scheme alongwith other 516 SR Schemes.

ISSUES

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

REASONS

It is admitted fact that, initially the Respondent No.3 society appointed one M/s. Kunal Builders & Developers as developer. Due to non-performance and inordinate delay, the said developer was terminated by the Deputy Collector/SRA through order dated 28.09.2016. Thereafter the Respondent No.1 was appointed as developer. However thereafter there is absolutely no progress in subject S. R. Scheme and the Scheme is stand still. Even the Annexure-II is also not obtained.

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.402. The said Public Notice dated 20.04.2022 is challenged by Respondent No.1 before the Hon'ble Apex Grievance Redressal Committee vide Application No.203 of 2022. Thereafter in the light of order passed by Hon'ble High Court dated 10.01.2023 in Writ Petition (L) No.14017 of 2022, Nipun Thakkar V/s. Chief Executive Officer/SRA & Anr., the Apex Grievance Redressal Committee pleased to pass an order on 05.04.2023 and set aside the Public Notice dated 20.04.2022 to the extent of Sr. No.402 in respect of subject SR Scheme. The Hon'ble Apex Grievance Redressal Committee has also directed this Authority to take action in accordance with law in respect of subject SR Scheme.



The record further reveals that the Hon'ble High Court has quashed the Public Notice dated 20.04.2022 in Writ Petition (L) No.14017 of 2022 Nipun Thakkar V/s. CEO/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.

There is no progress at all and scheme is stand still. It is pertinent to note that Respondent No.1 through letter dated 21.07.2023 has granted consent for removal of their appointment from subject SR Scheme. 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 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 appointment of Respondent No.1 i.e. M/s. Reliance Construction Co. is terminated as developer of subject SR Scheme i.e. SR Scheme on C.T.S. No.50A of Village Pahadi, Goregaon for "Adarsh SRA CHS"
2. The Respondent No.3 society i.e. Adarsh SRA CHS is at liberty to appoint new developer 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.

Place:- Mumbai

Date:- **22 DEC 2023**


Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO Order/Adarsh SRA CHS/77/2023

Date: **22 DEC 2023**

Copy to:

1. M/s. Reliance Construction Co.
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1st Floor, C.D. Barfiwala Marg,
Andheri (West), Mumbai – 400 058
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3. Adarsh SRA CHS
CTS No.50A(Pt.), Pahadi Goregaon,
Adarsh Nagar, Teen Dongari,
Goregaon (West), Mumbai – 400 104
4. Deputy Chief Engineer/SRA
5. Executive Engineer (P/S Ward)/SRA
6. Deputy Collector (Spl. Cell)/SRA

7. Finance Controller/SRA
8. Chief Legal Consultant/SRA
9. Joint Registrar (W.S.)/SRA
10. IT Officer/SRA

