

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

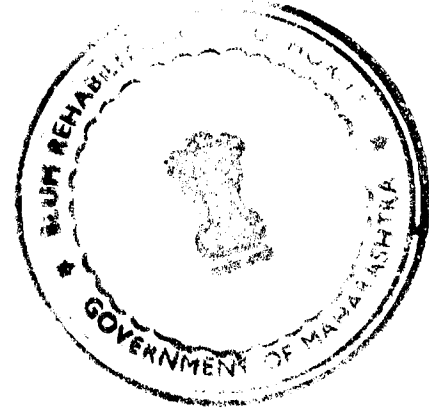
No. SRA/ENG/2625/E/ML/LOI

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. SLK Realty Pvt. Ltd.
1470/1471, Sun Estate,
Gen. Arun Kumar Vaidya Marg,
Mahim Causeway, Mahim (West),
Mumbai -400016
2. M/s. DOT Architects, Ground Floor,
Sharda Sangeet Vidyalaya,
M.K. Marg, Kala Nagar, Bandra (East),
Mumbai -400051
3. Samata CHS (Prop.),
C.S. No.1965 of Byculla Division,
Pais Street & Moosa Killedar Street,
Byculla (West), Mumbai - 400011



... Respondents

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

ORDER

(Passed on 30 APR 2022)

These Suo Moto proceedings are initiated in respect of Slum Rehabilitation Scheme on land bearing C.S. No.1965 of Byculla Division, Pais Street & Moosa Killedar Street, Byculla (West) for Mumbai - 400011 for "Samata CHS Ltd." pursuant to the direction of Hon'ble Apex Grievance Redressal Committee dated 14.03.2022 in Application No.283 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 CTS No.1965 of Byculla Division, Pais Street & Moosa Killedar Street, Byculla (West), Mumbai – 400011 formed Respondent No.3 Society i.e. Samata CHS (Prop.) and in General Body Meeting resolved to redevelop the said land by implementing the Slum Rehabilitation Scheme. The Respondent No.3 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 5380.61 sq. mtrs. The said land is owned by MCGM. The proposal of subject S.R. Scheme is accepted by Slum Rehabilitation Authority on 15.10.2011. However, thereafter there is absolutely no progress in subject S.R. Scheme and the Scheme is stand still.

The note of Engineering department dated 22.05.2023 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.6. 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.283 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 dated 14.03.2022 in Application No.283 of 2022 and set aside the Public Notice dated 20.04.2022 to the extent of Sr. No.6 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 direction, a note dated 22.05.2023 was submitted by Executive Engineer (E-Ward)/SRA for initiating action u/s 13(2) of Maharashtra Slum Areas (I, C & R) Act, 1971 and accordingly notices were issued to the concern parties and the matter was heard on



19.06.2023. On said day Mr. Naveed Siddique remain present alongwith Adv. Panickar for Respondent No.1 developer. The representatives of Respondent No.3 society also remain present. The parties were heard at length and matter was closed for order. Directions were given to parties to submit their written submissions within 15 days. In spite of directions, the Respondent No.3 failed to submit written submissions on record.

ARGUMENT OF RESPONDENT NO.1

According to Respondent No.1, one Bharucha Tabela No.2 Zopadpatti Rahivashi Sangh (Prop.) through Diamond Square Constructions Pvt. Ltd., developer submitted a SR Scheme on land C.S. No.1965 of Byculla Division in the year 2010 and same was accepted. The then Chief Executive Officer/SRA through order dated 03.09.2011 recorded the proposal submitted by said Bharucha Tabela No.2 Zopadpatti Rahivashi Sangh (Prop.). Thereafter majority of slum dwellers on said land have formed Samata CHS (Prop.) to implement the SR Scheme and appointed Respondent No.1 as developer by executing Development Agreement and Power of Attorney, common consent. According to Respondent No.1 the proposal of subject SR Scheme was accepted on 15.10.2011. The MCGM has also granted no objection through letter dated 18.06.2018 to implement the subject SR Scheme on payment of further premium.

It is the version of Respondent No.1 that the Airport Authority of India also granted No Objection Certificate dated 19.01.2021 for height clearance in respect of subject SR Scheme. It is further version of Respondent No.1 that Competent Authority has published draft Annexure-II. This Authority has also approved Letter of Intent. According to Respondent No.1 considerable time was spent by them in amending plans in the light of DCPR, 2034.

According to Respondent No.1 they continuously follow up with Competent Authority for certification of Annexure-II. But due to change of Competent Authority by the Government for multiple time from 2018 till date, they could not obtained the Annexure-II. It is further version of Respondent No.1 that due to Covid-19 Pandemic, the Government had

imposed strict restriction due to which they could not take any steps. In the meanwhile in the year 2022, this Authority had recorded 517 Slum Rehabilitation Schemes vide public notice dated 20.04.2022. The said Public Notice dated 20.04.2022 was challenged by Respondent No.1 before the Hon'ble Apex Grievance Redressal Committee vide Application No.283 of 2022. The Hon'ble Apex Grievance Redressal Committee passed an order dated 14.03.2022 setting aside the Public Notice dated 20.04.2022 to the extent of Sr. No.6 for subject SR Scheme.

According to Respondent No.1, they have taken requisite steps for certification of Annexure-III. The Finance Controller/SRA has directed them to submit Bank Guarantee amounting to Rs.37,17,000/-. It is the version of Respondent No.1 that since the situation was beyond their control, the delay has occurred. It is further version of Respondent No.1 that they are ready and willingly to rehabilitate all eligible slum dwellers within a period of 3½ years from the date of issuance of Commencement Certificate.

It is further version of Respondent No.1 that Respondent No.1 society have full faith and confidence in them for implementation of subject SR Scheme. Therefore, Respondent No.1 has requested to drop the present proceeding initiated against them and to expeditiously grant further permissions for implementation of subject SR Scheme.

ISSUES

From 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 the proposal of subject S.R. Scheme is accepted by this Authority on 15.10.2011 and certified Annexure-II is not issued till date. It is submitted on behalf of Respondent No.1 that the delay is not attributable to them but the same is occurred due to change of Competent Authority by Government from 2018 till date because of which they could not obtain the Annexure-II. It is further

version of Respondent No.1 that due to Covid-19 Pandemic, the Government had imposed strict restriction due to which they could not take further steps. It is further version of Respondent No.1 that the Airport Authority of India also granted No Objection Certificate dated 19.01.2021 for height clearance in respect of subject SR Scheme. According to Respondent No.1 considerable time was also spent by them in amending plans in the light of DCPR, 2034. The Respondent No.1 is ready and willing to implement the subject SR Scheme within 3 ½ years from the date of Commencement Certificate. Though the representatives of Respondent No.3 society remain present during the hearing held on 19.06.2023, they failed to submit written submissions on record.

The Slum Rehabilitation Authority through Public Notice dated 20.04.2022 had recorded 517 dormant proposals in which the developers and societies failed to take necessary steps. In the said list, the proposal of subject SR Scheme was at Sr. No.6. While quashing the Public Notice dated 20.04.2022, the Hon'ble High Court in paragraphs no.13 of the order made following observations;

"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".

The record reveals that the Respondent No.1 has challenged the said Public Notice before the Hon'ble Apex Grievance Redressal Committee vide Application No.283 of 2022. The Hon'ble Apex Grievance Redressal Committee through order dated 14.03.2023 had set aside the Public Notice dated 20.04.2022 to the extent of Sr. No.6 and directed this Authority to take action in accordance with law in respect of subject SR Scheme.

The developers implementing the SR Schemes are expected to complete the Scheme and rehabilitate the slum dwellers within reasonable time. This Authority is conscious of the delay occurred in implementation of subject SR Scheme. For action u/s 13 (2) of the



Maharashtra Slum Areas (I, C & R) Act, 1971, this Authority is required to verify the facts and cause of delay. Merely for the reason that the scheme is not completed within reasonable time the inference cannot be drawn of willful delay or incompetence of the developer. It is necessary to look into the factual aspect which resulted in delay in completion of the Scheme.

There is copy of order of Hon'ble Apex Grievance Redressal Committee dated 14.03.2023 on record. From said order it appears that the Hon'ble Apex Grievance Redressal Committee has observed that Public Notice dated 20.04.2022 has been issued by this Authority without following due process of law as well as principles of Natural Justice. Further the Hon'ble Apex Grievance Redressal Committee relies upon the order dated 10.01.2023 passed by Hon'ble High Court in Writ Petition (L) No.14017 of 2022.

There is report of Engineering department dated 15.04.2024 on record. From said report it appears that the subject SR Scheme is approved on 15.10.2011 and Respondent No.1 has made payment of Rs. 20,80,160/- towards land premium. The report further states that Respondent No.1 has submitted copy of NOC of height clearance dated 19.01.2021, Letter of Intent report is approved on the basis of draft Annexure II.

Considering the submission of Respondent No.1 advanced before this Authority, it is difficult to conclude that there is nonperformance and willful delay on the part of Respondent No.1. The delay occurred in subject SR Scheme is not attributable to Respondent No.1. Therefore, it will be just and proper to drop the present proceeding. Accordingly following order is passed.

ORDER

1. The proceedings initiated u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 against Respondent No.1 i.e. M/s. SLK Realty Pvt. Ltd. C.S. No.1965 of Byculla Division, Pais Street & Moosa Killedar Street,



Byculla (West) for Mumbai – 400011 for "Samata CHS Ltd." are hereby dropped.

2. The Respondent No.1 is directed to submit bar chart regarding time bound implementation of the subject SR Scheme.
3. The Respondent No.1 to comply with the provisions of circular no.210 of Slum Rehabilitation Authority before applying for permissions.
4. The Executive Engineer to visit the site periodically and ensure timely completion of scheme as per bar chart submitted by Respondent No.1.

Place:

Date: 30 APR 2024


Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO/13(2)/Samata CHS (Prop.)/45/2024

Date: 30 APR 2024

Copy to:

1. M/s. SLK Realty Pvt. Ltd.
1470/1471, Sun Estate,
Gen. Arun Kumar Vaidya Marg,
Mahim Causeway, Mahim (West),
Mumbai – 400016
2. M/s. DOT Architects,
Ground Floor, Sharda Sangeet Vidyalaya,
M.K. Marg, Kala Nagar, Bandra (East),
Mumbai – 400051
3. Samata CHS,
C.S. No.1965 of Byculla Division,
Pais Street & Moosa Killedar Street,
Byculla (West), Mumbai – 400011
4. Deputy Chief Engineer/SRA
5. Executive Engineer (E-Ward)/SRA
6. DSLR/SRA
7. Deputy Collector (Special Cell)/SRA
8. Finance Controller/SRA
9. Chief Legal Consultant/SRA
10. Joint Registrar (City)/SRA
11. IT Officer/SRA