



SLUM REHABILITATION AUTHORITY

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

No. SRA/ENG/1380/PN/STGL/LOI

Shri. Ramkumar Sambhunath Chaurasiya
and Smt. Sarojadevi Adarsh Vidyalaya
Shambhunath Devastan,
Churasiya Compound,
Bhabrekar Nagar, Charkop,
Kandivali (West), Mumbai – 400 067

... Applicants

V/s

1. M/s. S.M. Builders & Developers
56/440, Motilal Nagar No.3,
M.G. Road, Goregaon (West)
Mumbai – 400 104
2. M/s. Vivek Bhole Architect Pvt. Ltd.
1st Floor, Pinnacle Business Park,
Mahakali Caves Road, MIDC, Andheri (East),
Mumbai – 400 093
3. Shree Ramayan SRA CHS (Prop.)
CTS No. 6-A(pt), Survey No. 263,
Mauje- Malad Malvani, Kandivali (W),
Mumbai – 400 067
4. Ramayya Subayya
Residing at Room No.88, Shree Ramayan SRA CHS,
CTS No.6A, Bhabrekar Nagar,
Kandivali (West), Mumbai – 400 067



... Respondents

ORDER

(Passed on - 29 FEB 2024)

Through order dated 21.02.2023, this Authority in proceedings u/s 13 (2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 has directed the Respondent No.1 to take necessary steps for obtaining Occupation

Certificate to rehab building expeditiously. The Respondent No.1 further directed to pay the rent of slum dwellers including arrears if any within a period of one month in accordance with circular no.153 of Slum Rehabilitation Authority.

In this regard Advocate Ashwin Tripathi on behalf of Applicants have submitted a representation dated 17.04.2023 to this Authority and informed that the Respondent No.1 has failed to comply with directions of this Authority dated 21.02.2023. On that count notices of hearing issued to concern parties. In brief the facts which lead to present proceedings are as under;

BRIEF FACTS:

The report of engineering department dated 12.12.2023 is on record. From said report it reveals that the proposal of subject SR Scheme is accepted by this Authority on 19.04.2006. The Annexure-II is issued by Competent Authority on 29.08.2006 for total 363 slum dwellers, out of which 282 were declared as eligible. Letter of Intent was issued on 16.10.2009 and the same is revised lastly on 14.01.2022. Intimation of Approval for rehab building no.1 was issued on 14.02.2011 and the same is amended on 17.06.2022. Plinth Commencement Certificate for rehab building no.1 was issued on 19.10.2012 and full Commencement Certificate to rehab building no.1 was issued on 13.07.2022. The report further reveals that construction work of rehab building no.1 is completed and Respondent No.2 submitted a proposal for Occupation Certificate on 21.11.2023. After compliance of conditions such as CFO completion, Lift license & other conditions the Occupation Certificate to rehab building no.1 will be issued.

In this regards due to non-payment of rent, the Applicants & Respondent No.4 have submitted various complaints to this Authority. Pursuant to the said complaints hearing was held before the Assistant Registrar (Western Suburb)/SRA. In spite of directions given by the Assistant Registrar to developer to pay the arrears of rent and submit self-



declaration within 15 days, the Respondent No.1 developer failed to pay the same. Therefore stop work notice was issued by engineering department for sale component. The note of Assistant Registrar dated 20.08.2019 reveals that the rent is not paid by the Respondent No.1. On that count the action u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 was initiated and the matter was heard by this Authority on various dates. After hearing all the concerned parties, this Authority passed an order dated 21.02.2023 and directed the Respondent No.1 to take necessary steps for obtaining Occupation Certificate to rehab building expeditiously. The Respondent No.1 further directed to pay the rent of slum dwellers including arrears if any within a period of one month in accordance with circular no.153 of Slum Rehabilitation Authority.

In this regard Advocate Ashwin Tripathi on behalf of Applicant submitted a representation dated 17.04.2023 to this Authority and informed that the Respondent No.1 has failed to comply with directions of this Authority dated 21.02.2023. On that count the hearing is again proposed and accordingly notices were issued to the concern parties.

HEARING

The matter is heard on 23.05.2023. On said day Advocate Kamlesh Yadav appeared on behalf of Respondent No.1. Advocate Manjula Vel appeared on behalf of Respondent No.4. Advocate A.S. Tripathi appeared on behalf of Applicant. On said day parties were heard at length and matter is closed for order.

ARGUMENT OF APPLICANTS

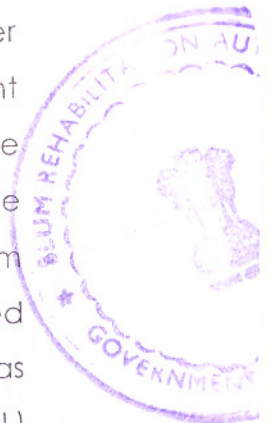
Advocate Ashwin Tripathi on behalf of Applicants submitted a representation dated 17.04.2023. According to Applicants, they are in possession of 15 structures out of which 11 structures were demolished and Respondent No.1 failed to pay rent to them. It is further version of Applicants that, the Assistant Registrar/SRA through order dated 30.04.2019 directed the Respondent No.1 to pay the arrears of rent compensation to them. The said order was challenged by Respondent

No.1 in Application No.226 of 2019 before the Hon'ble Apex Grievance Redressal Committee and the same was dismissed on 05.05.2022. According to Applicants they have not been paid with the rent till date inspite of the directions of this Authority dated 21.02.2023 issued u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971.

ARGUMENT OF RESPONDENT NO.1

There is copy of letter dated 08.01.2024 of Respondent No.1 on record. According to Respondent No.1, through General Body Resolution, they have been appointed as Developer by Respondent No.3 society. There are total 363 slum dwellers under the subject SR Scheme and they have conducted lottery of 264 tenements and rehabilitated them in rehab building. It is further version of Respondent No.1 that lottery of 29 tenements is under process. The Respondent No.1 has made provision of 78 PAP which are ready to handover. They have paid the entire transit rent to all eligible slum dwellers except one slum dwellers i.e. Shri. Ramkumar Sambhunath Chaurasiya (Applicants).

According to Respondent No.1, the claim of Applicants for transit rent is in respect of structure at Sr. Nos.25, 26, 27, 28, 70, 71, 94, 119, 120, 139, 192, & 267 in Annexure-II has been shown as ineligible. It is further version of Respondent No.1 that they have given notice to Respondent No.1 alongwith transit rent to vacate the aforesaid structures, but the Applicants failed to vacate the same, so action u/s 33/38 of the Maharashtra Slum Areas (I, C & R) act, 1971 was initiated against them by Competent Authority. Accordingly the Competent Authority passed an order for demolition of these structures. The said order was challenged by Applicants in Hon'ble High Court through Writ Petition (L) No.2583 of 2016. The Hon'ble High Court through orders dated 27.09.2016 & 19.10.2016 disposed of said Petition with directions that the students of Sarojadevi Adarsh Vidyalay have been shifted to other Schools in nearby vicinity.



According to Respondent No.1, inspite of order of the Hon'ble Court, the Applicants has constructed illegal structures and again running the School in said structures. It is the case of the Respondent No.1 that the said order of Hon'ble High Court dated 27.09.2016 was challenged by Applicants in Hon'ble Supreme Court being Special Leave to Appeal (C) No.36046 of 2016 and the same was dismissed on 02.01.2017.

It is the case of Respondent No.1 that the application for eligibility of the Applicants was rejected by Competent Authority, but subsequently again application of Applicants for their eligibility was allowed and they have been declared as eligible. The eligibility of Applicants are challenged by Respondent No.1 in Hon'ble High Court in Writ Petition No.13303 of 2023 and the said Petition is pending.

It is further version of Respondent No.1 that on application of Applicants & Respondent No.4 the proceedings u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 initiated against them, but the same was dropped by this Authority through order dated 21.02.2023. The said order was challenged by Applicants in Writ Petition (L) No.23782 of 2023 and issue of entitlement of transit rent is pending in said Writ Petition. The Respondent No.1 has also deposited DD amounting to Rs.25,00,000/- to this Authority under protest subject to final outcome of abovesaid Writ Petitions.

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

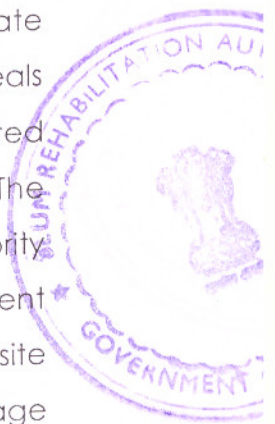
Before proceeding to discuss about rival contention, it is necessary to refer to few material facts. The proposal of subject SR Scheme is accepted by this Authority on 19.04.2006. The Slum Rehabilitation

Authority issued last revised Letter of Intent on 14.01.2022. The Intimation of Approval for rehab building no.1 was issued on 14.02.2011 and the same is amended on 17.06.2022. Plinth Commencement Certificate for rehab building no.1 was issued on 19.10.2012 and full Commencement Certificate to rehab building no.1 was issued on 13.07.2022.

The record reveals that due to non-payment of transit rent to Applicants & Respondent No.4, this Authority initiated action u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 against Respondent No.1. After hearing the parties on various dates, this Authority through order dated 21.02.2023 dropped the proceedings u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 and directed the Respondent No.1 to take necessary steps for obtaining Occupation Certificate to rehab building expeditiously. The Respondent No.1 further directed to pay the rent of slum dwellers including arrears if any within a period of one month in accordance with circular no.153 of Slum Rehabilitation Authority.

In this regard Advocate Ashwin Tripathi on behalf of Applicants submitted a representation dated 17.04.2023 to this Authority stating that the Respondent No.1 has failed to comply with directions of this Authority dated 21.02.2023. He further requested this Authority to initiate appropriate action against Respondent No.1. The record further reveals that Applicants has also challenged the order of this Authority dated 21.02.2023 in Writ Petition (L) No.23782 of 2023 in Hon'ble High Court. The Hon'ble Court through its order dated 21.09.2023 directed this Authority to inform the Hon'ble Court regarding action taken against Respondent No.1 for non-compliance of order dated 21.09.2023. The official website of Hon'ble High Court reveals that the said Petition is at admission stage and there is no any interim or restraining order passed.

According to Respondent No.1 they have completed the rehab building. The lottery is also drawn by co-operative department and the Occupation Certificate is pending due to CFO NOC and Lift License. The



factsheet of subject SR Scheme reveals that there are total 282 eligible slum dwellers and the rehab building no.1 constructed by Respondent No.1 is comprising of 363 rehab tenements. The report of Assistant Registrar further reveals that except the present Applicants, no rent of any other slum dweller is due as per their record. Advocate Kamlesh Yadav for Respondent No.1 submitted that, the Respondent No.1 is challenging the eligibility of Applicants Shri. Ramkumar Sambhunath Chaurasiya and Smt. Sarojadevi Adarsh Vidyalaya. There are two Writ Petition's being Writ Petition No.3249 of 2023 & 13303 of 2023 filed by Respondent No.1 are pending in Hon'ble High Court. He further submitted that the transit rent is required to be paid to the eligible slum dwellers for securing transit accommodation. The copy of order of Hon'ble Apex Grievance Redressal Committee in Application No.226 of 2019 reveals that the students of Applicants school have been transferred to the schools in nearby vicinity & the structures of Applicants were demolished.

In present case admittedly as per the statement of Applicants Advocate in Writ Petition (L) No.2583 of 2016, the students of Smt. Sarojadevi Adarsh Vidyalay were absorbed in the other school in the vicinity. So the Applicants are not entitled for transit rent. He further submitted that the letter dated 30.04.2019 of Assistant Registrar directing the Respondent No.1 to pay the transit rent to Applicants is under challenge in Writ Petition No.13303 of 2023. He further submitted that in the event of failure of their challenge, the Respondent No.1 is bound to pay the transit rent. Further he submitted that the order dated 21.09.2023 is obtained by Petitioner in the absence of Respondent No.1 and on next date Respondent No.1 shall place on record of Hon'ble Court the true facts. Further he submitted that the Respondent No.1 has deposited three Demand Drafts for total amount of Rs.25,00,000/- towards transit rent of Applicant under protest and the said amount should not be disbursed to Applicants till final outcome of pending Writ Petition's. Apart

from depositing the amount of Rs.25,00,000/-, the Respondent No.1 has also expressed willingness to submit Undertaking stating that in the event of failure of their challenge they will pay the entire transit rent to the Applicants.

The Respondent No.1 has almost completed the rehab component. Considering the amount deposited by Respondent No.1 and their willingness to submit Undertaking, this Authority is of opinion that following order will meet the ends of justice.

ORDER

1. The proceedings are disposed of as under
2. The amount of Rs.25,00,000/- are deposited by Respondent No.1 be kept with Slum Rehabilitation Authority till final disposal of Writ Petition No.3249 of 2023 & 13303 of 2023 pending in Hon'ble High Court.
3. The Respondent No.1 is directed to submit an Undertaking within one month from the date of order stating that in the event of failure of their challenge to the eligibility of Applicants, they shall deposit the balance amount of rent determined by Assistant Registrar/SRA within one months.

Place: - Mumbai

Date: - **29 FEB 2024**


Chief Executive Officer
Slum Rehabilitation Authority



No. SRA/CEO Order/Shree Ramayan SRA CHS (Prop.)/12/2024

Date: **29 FEB 2024**

Copy to:

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and Smt. Sarojadevi Adarsh Vidyalaya
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Mauje- Malad Malvani, Kandivali (W), Mumbai – 400 067
5. Ramayya Subayya
Through C.A. N. Shunmuga Sundaram,
Residing at Room No.88, Shree Ramayan SRA CHS,
CTS No.6A, Bhabrekar Nagar,
Kandivali (West), Mumbai – 400 067
6. Dy. Chief Engineer/SRA
7. Executive Engineer (P/N Ward)/SRA
8. Deputy Collector (Spl. Cell)/SRA
9. Financial Controller/SRA
10. Assistant Registrar (W.S.)/SRA
- ✓ 11. Information Technology Officer/SRA
12. Chief Legal Consultant/SRA