



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

No.SRA/ENG/2331/PN/PL/LOI

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. Shah Housecon Pvt. Ltd.,
'A' Wing, 1st Floor, Shah Arcade,
Rani Sati Marg, Malad (East),
Mumbai 400 097
2. Shri Vishwas Satodia,
1102/B Wing, 11th Floor,
Shah Arcade-II, Rani Sati Marg,
Malad (East), Mumbai - 400 097
3. Dadi CHS (Prop.)
CTS No.427B(pt), 427B/1 to 78, 427B/82 to 90,
472B/93 to 122 of Village Malad (East),
Rani Sati Marg, Malad (East),
Mumbai - 400 097



... Respondents

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

ORDER

(Passed on - 12/10/23)

These Suo-Moto proceedings are initiated in respect of Slum Rehabilitation Scheme on land CTS No.472B(pt), 472B/1 to 78, 472B/82 to 90, 472/93 to 122 of Village Malad (East) for "Dadi CHS (Prop.)" on account of non-payment of rent. 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.472B(pt), 472B/1 to 78, 472B/82 to 90, 472/93 to 122 of Village Malad (East) formed Dadi CHS (Prop.) i.e. Respondent No.3 and resolved to redevelop the land in their occupation by implementing the Slum Rehabilitation Scheme. Accordingly the Respondent No.3 society appointed the Respondent No.1 as Developer and Respondent No.2 as Architect for redevelopment of land in their occupation by implementing Slum Rehabilitation Scheme. Pursuant to the appointment, the Respondent No.1 submitted proposal of subject SR Scheme to Slum Rehabilitation Authority on land admeasuring 4696.84 sq. mtrs. The said land is privately owned. The proposal of subject SR Scheme is duly accepted on 25.03.2010. The certified Annexure-II is issued by the Deputy Collector (Enc./Rem.) & Competent Authority, Malad on 31.05.2012 for total 284 slum dwellers out of which 67 are held eligible. Letter of Intent was issued on 08.08.2013. Intimation of Approval to Composite Building No.1 for Wing 'A' & 'B' was issued on 13.01.2014. Plinth Commencement Certificate to Composite Building No.1 was issued on 13.03.2014.

The subject SR Scheme is clubbed with another SR Scheme of Khot Dongari CHS on land CTS No.521, 521/1 to 8, 521/10 to 17, 522, 522/1 to 11, 523, 524, 524/1 to 12, 525, 525/1 to 4, 527, 527/1 to 26, 528, 528/1 to 11, 529, 529/1 to 15, 530, 530/1 to 16, 531, 532, 532/1 to 13, 533/486 to 643, 533/648, 536, 536/1 to 5, 537, 537/1 to 7, 580, 580/1 to 13, 581A/3B(pt), 581A/3B/1/10 to 33 of Village Malad and clubbing Revised Letter of Intent was issued on 25.09.2014. As per clubbing Letter of Intent dated 25.09.2014, the rehab built up area admeasuring 3474.03 sq. mtrs. was transferred to Dadi CHS as against sale built up area admeasuring 4143.37 sq. mtrs. was transferred to Khot Dongari CHS. The Intimation of Approval to Composite Building No.1 was lastly amended on 15.01.2016. Plinth Commencement Certificate to Composite Building No.1 was re-endorsed on 09.02.2015. Full Commencement Certificate for Composite Building No.1 Wing 'A' & 'B' was issued on 29.09.2015 and 30.09.2016



respectively. Part Occupation Certificate to Composite Building No.1 for 7 rehab commercial tenements, 1 sale commercial tenements, 5 Residential cum Commercial tenements, 3 balwadi, 3 Welfare Centre, 2 Society Office, Mazzenine floor for bank & 5 sale commercial tenements was issued on 13.10.2017. Intimation of Approval for rehab building no.2 was issued on 26.11.2014. The subject SR Scheme is under regulation 33(10) of DCR, 1991. As per density, the 147 PAP tenements are generated. Till date the Respondent No.1 has constructed one Composite Building No.1 comprising of rehab Wing 'A' & sale Wing 'B' and the provision is made for 67 eligible slum dwellers in Wing 'A'. The RCC & brick work of Composite Building No.1 for Wing 'A' & 'B' is completed on site.

The Joint Registrar (Eastern & Western Suburbs)/SRA submitted a note dated 22.09.2021 alleging that they have received letter dated 22.01.2021 from Respondent No.3 in respect of nonpayment of rent by Respondent No.1. So, the joint hearings of society and developer were held. The directions were given to Respondent No.1 to deposit the arrears of rent as per circular no.153 of Slum Rehabilitation Authority in bank account of concerned slum dwellers. Since, the Respondent No.1 failed to pay the arrears of rent to eligible slum dweller stop work notice is issued to sale component on 12.02.2021. Due to noncompliance on the part of Respondent No.1, the Joint Registrar has proposed the action u/s 13(2) of Maharashtra Slum Areas (I, C & R) Act, 1971. So the notice was issued to Respondents to show cause as to why the action u/s 13(2) of Maharashtra Slum Areas (I, C & R) should not be taken against them.

The matter is heard on various dates. On 22.11.2022 Respondent No.3 duly appeared through their representatives. On behalf of Respondent No.1, Adv. Madhur Surana remain present. Parties are heard at length and matter was closed for order.

ARGUMENT OF RESPONDENT NO.3

According to Respondent No.3 through General Body Resolution they have appointed Respondent No.1 as developer for implementation

of subject SR Scheme. Pursuant to the appointment the Respondent No.1 has submitted a proposal to Slum Rehabilitation Authority and same is accepted on 25.03.2010. The Respondent No.1 has obtained permissions such as Letter of Intent, Intimation of Approval and Commencement Certificate, part Occupation Certificate etc. It is further version of Respondent No.3 that, pursuant to the approvals the Respondent No.1 demolished the structures of members of Respondent No.3 during the year 2014 to 2017 with assurance to pay them transit rent and permanent alternate accommodation. It is further version of Respondent No.3 that the Respondent No.1 failed to pay the transit rent to eligible slum dwellers for the period of last 5 years and also failed to comply with the circular no.153 of the Slum Rehabilitation Authority. Due to nonpayment of rent to eligible slum dwellers the Slum Rehabilitation Authority also issued stop work notice to the sale component of the subject SR Scheme. It is alleged by the Respondent No.3 that despite the rehab building being ready for possession, allotment is not done to the members of Respondent No.3 and the tenements are allotted to other persons. On these grounds the Respondent No.3 has prayed to terminate the appointment of Respondent No.1 as developer.

CASE OF RESPONDENT NO.1

There is copy of letter dated 05.02.2021 on record. According to Respondent No.1 they have paid the rent to eligible slum dwellers through pay orders/cheques. The Respondent No.1 further stated that the rehab building is also completed and finishing work is in progress. On these grounds the Respondent No.1 prayed not to take any coercive action against them.

ISSUES

From the facts and circumstances on record 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

The proposal of subject SR Scheme is accepted by this Authority on 25.03.2010. The Competent Authority issued certified Annexure-II on 31.05.2012. Letter of Intent was issued on 08.08.2013. Intimation of Approval to Composite Building No.1 for Wing 'A' & 'B' was issued on 13.01.2014. Plinth Commencement Certificate to Composite Building No.1 was issued on 13.03.2014. The subject SR Scheme is clubbed with another SR Scheme of Khot Dongari CHS and clubbing Revised Letter of Intent was issued on 25.09.2014. The Intimation of Approval and Commencement Certificate to Composite Building No.1 as well as Rehab Building No.2 issued during the year 2014 to 2016. Part Occupation Certificate to Composite Building No.1 for 7 rehab commercial tenements, 1 sale commercial tenements, 5 Residential cum Commercial tenements, 3 balwadi, 3 Welfare Centre, 2 Society Office, Mezzanine floor for bank & 5 sale commercial tenements was issued on 13.10.2017. As per density, the 147 PAP tenements are generated. Till date the Respondent No.1 has constructed one Composite Building No.1 comprising of rehab Wing 'A' & sale Wing 'B' and the provision is made for 67 eligible slum dwellers in Wing 'A'. The RCC & brick work of Composite Building No.1 for Wing 'A' & 'B' is completed on site.

From record it appears that, there are total 11 buildings proposed in the SR Scheme of Khot Dongari CHS. Out of which 7 buildings are for rehab, 3 buildings are for sale and 1 building is for Amenity. The record further reveals that out of these 7 rehab buildings, the Intimation of Approval to 2 rehab buildings are issued on 18.07.2022, the Full Commencement Certificate to 2 rehab buildings are issued during the year 2014 & 2015 and the Occupation Certificate to 3 rehab buildings are issued during the year 2012 to 2022. So far as the 3 sale buildings are concern, the Plinth Commencement Certificate to 1 sale building is issued on 18.07.2022 and the Part Occupation Certificate to 1 sale building is issued during the year 2018 to 2022. During the period of last

13 years the Respondent No.1 has failed to rehabilitate the slum dwellers of Respondent No.3 society.

There is copy of report of engineering department dated 27.02.2023 on record. As per said report it appears that after clubbing Letter of Intent dated 25.09.2014, the rehab built up area admeasuring 3474.03 sq. mtrs. was transferred to Dadi CHS as against sale built up area admeasuring 4143.37 sq. mtrs. was transferred to Khot Dongari CHS.

Inspite of directions given by Joint Registrar to Respondent No.1 to deposit the arrears of rent as per circular no.153 of Slum Rehabilitation Authority, the Respondent No.1 failed to pay the arrears of rent to eligible slum dweller. So, the stop work notice is issued to sale component of subject SR Scheme on 12.02.2021. One Dhiraj Bhanushankar Jani & 31 Ors. have filed Writ Petition (L) No.35627 of 2022 in the Hon'ble High Court seeking directions to this Authority to recover arrears of rent from Respondent No.1. The official website of Hon'ble High Court reveals that the said Petition is at admission stage and there is no any interim order passed.

It is needless to state that after demolition of structures of slum dwellers, the Respondent No.1 is expected to pay the transit rent to slum dwellers regularly as per circular no.153 of Slum Rehabilitation Authority. But Respondent No.1 has not acted as per said circular. During the hearing held on 18.10.2022, this Authority has also directed the Respondent No.1 to pay the arrears of rent within a period of 15 days and submit the proposal of lottery for allotment of rehab tenements. But record nowhere reveals that the Respondent No.1 complied with the said directions. Lastly the matter was heard on 22.11.2022. On said day the Advocate for Respondent No.1 was present and directions were given to him to submit written submission. Inspite of the said direction, the Respondent No.1 has failed to submit written submission on record. All above version of Respondent No.3 society has gone uncontroverted. There is no explanation forthcoming from Respondent No.1. The conduct of Respondent No.1 indicates that they are not interested in



implementing the subject SR Scheme. Obviously, there is nonperformance and gross inaction on the part of Respondent No.1. In this regard the observation of Hon'ble High Court in case of Ravi Ashish Land Developers Ltd. V/s. Prakash Pandurang Kamble & Anr. in Appeal from Order No.1019 of 2010, are relevant. For sake of convenience, the observation of Hon'ble High Court are reproduced as it is and same 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 nonperformance and inordinate delay the part of Respondent No.1 in implementation of subject SR Scheme and Respondent No.1 is liable to be terminated as developer of subject SR Scheme. Accordingly following order is passed.

ORDER

1. The Respondent No.1 i.e. M/s. Shah Housecon Pvt. Ltd. is hereby terminated as developer in respect of subject SR Scheme i.e. SR Scheme on land CTS No.472B(pt), 472B/1 to 78, 472B/82 to 90, 472/93 to 122 of Village Malad (East) for "Dadi CHS (Prop.)"
2. The other SR Scheme of Khot Dongari CHS clubbed with SR Scheme of Respondent No.3 society stands de-clubbed.
3. The Respondent No.1 is directed to submit the proposal for revised Letter of Intent for SR Scheme of Khot Dongari CHS as per rules, regulation and policy of SRA.

4. The Respondent No.3 i.e. Dadi CHS (Prop.) is at liberty to appoint new developer of its choice as per rules, regulations and policy of Slum Rehabilitation Authority.
5. The Executive Engineer/SRA to appoint Government approved Valuer to determine the actual expenses incurred by Respondent No.1 in respect of subject SR Scheme till date.
6. The newly appointed developer to reimburse the actual expenses incurred by Respondent No.1 in respect of subject SR Scheme till date as per the provisions of Section 13(3) of Maharashtra Slum Areas (I, C & R) Act, 1971.

Place: - Mumbai

Date:- **12 OCT 2023**


Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO Order/Dadi CHS (Prop.)/64/2023

Date: **12 OCT 2023**

Copy to:

1. M/s. Shah Housecon Pvt. Ltd.,
'A' Wing, 1st Floor, Shah Arcade,
Rani Sati Marg, Malad (East),
Mumbai 400 097.
2. Shri Vishwas Satodia,
1102/B Wing, 11th Floor,
Shah Arcade-II, Rani Sati Marg,
Malad (East), Mumbai - 400 097.
3. Dadi CHS (Prop.)
CTS No.472B(pt), 472B/1 to 78, 472B/82 to 90,
472B/93 to 122 of Village Malad (East),
Rani Sati Marg, Malad (East),
Mumbai - 400 097.
4. Dy. Chief Engineer/SRA
5. Executive Engineer (P/N Ward)/SRA
6. Tahasildar/SRA
7. Financial Controller/SRA
8. Joint Registrar (E.S. & W.S.)/SRA
- ✓ 9. Information Technology Officer/SRA
10. Chief Legal Consultant/SRA

