



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

File No.SRA/ENG/1235/MW/ML/LOI

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. Shree Ganesh Construction
601/602, Raikar Chambers,
K.D. Road, Govandi (East),
Mumbai - 400 088
2. M/s. Shah & Associates
A/1, Rajeshri Accord,
Telly Gully Cross Road,
Andheri (East), Mumbai - 400 069
3. Shree Swami Samarth SRA CHS (Prop.)
Chhatrapati Shivaji Maharaj Maidan,
Near Shivaji Gym School,
Chembur - Govandi Road,
Khardev Nagar, Ghatla,
Chembur, Mumbai - 400 071



... Respondents

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

ORDER

(Passed on 4/9/2023)

These proceedings are initiated in respect of Slum Rehabilitation Scheme on land bearing CTS No.86(pt), 87(pt), 88, 89(pt), 91(pt), 106(pt), 107(pt), 285(pt) of Village Borla for "Shree Swami Samarth SRA CHS (Prop.)" pursuant to the note of Executive Engineer dated 23.06.2023. 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.86(pt), 87(pt), 88, 89(pt), 91(pt), 106(pt), 107(pt), 285(pt) of Village Borla formed Respondent No.3 Society i.e. "Shree Swami Samarth SRA 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 5632.65 sq. mtrs. The said land is owned by MCGM. The proposal of subject S.R. scheme is accepted by Slum Rehabilitation Authority on 14.12.2005. Draft Annexure-II was forwarded to Dy. Collector/SRA on 16.12.2005. However, thereafter there is absolutely no progress in subject S.R. Scheme and the Scheme is stand still.

The note of Engineering department dated 23.06.2023 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.295. The said Public Notice dated 20.04.2022 is set aside by Hon'ble High Court through order dated 10.01.2023 in Writ Petition (L) No.14017 of 2022, Nipun Thakkar V/s. Chief Executive Officer/SRA & Anr.

Pursuant to said order, the notices were issued to the concerned parties and matter was heard on 11.07.2023. On said day Respondent No.1 remain present. Representatives of Applicant society were also present. The parties were heard at length and matter was closed for order. Directions were given to parties to submit their written submissions within 7 days.



ARGUMENT OF RESPONDENT NO.3

According to Respondent No.3, the occupant on land CTS No.86(pt), 87(pt), 88, 89(pt), 91(pt), 106(pt), 107(pt), 285(pt) of Village Borla have formed Respondent No.3 Society and appointed Respondent No.1 as developer for implementation of subject SR Scheme. It is further version of Respondent No.1 that the land in occupation of society is owned by MCGM. According to Respondent No.3, the proposal of subject SR Scheme is submitted by Respondent No.1 and same is duly accepted on 14.12.2005. The bio-metric survey of Annexure-II is conducted by MCGM in the year 2007-2008 and in the year 2009 the MCGM has prepared draft Annexure-II of 166 slum dwellers.

It is further version of Respondent No.3 that in the year 2010, the Government of Maharashtra implemented cluster development u/s 3K of the Maharashtra Slum Areas (I, C & R) Act, 1971 in entire Chembur Ghatla area on 48 acres land. So, in order to carve out their proposal from 3K scheme, they approached Hon'ble High Court and obtained order dated 27.10.2013 and thereby the subject SR Scheme is carve out from 3K Scheme. Thereafter, in the year 2015, the proposal of Annexure-II was again forwarded to MCGM pursuant to new Government Resolution. In the year 2016, the structures were increased to 248 numbers.

It is alleged by Respondent No.3 that due to overload of work in MCGM (M/W) Ward Office and limited officers, they could not complete the process of Annexure-II in time. According to Respondent No.3 the delay is not attributable to developer but the same is attributable to MCGM for not issuing Annexure-II in time. It is further alleged by Respondent No.3 that due to Covid -19 Pandemic from the year 2020-2021 they could not take further steps.

It is the version of Respondent No.3 that the subject SR Scheme was recorded with 517 dormant proposals through Public Notice dated

20.04.2022. In said list of 517 Schemes, the subject SR Scheme is at Sr. No.295. The said Public Notice dated 20.04.2022 is set aside by Hon'ble High Court through order dated 10.01.2023 in Writ Petition (L) No.14017 of 2022, Nipun Thakkar V/s. Chief Executive Officer/SRA & Anr. It is further version of the Respondent No.3 Society that they are having full trust and confidence in Respondent No.1. On these grounds the Respondent No.3 has prayed to drop the present proceeding initiated against Respondent No1.

ARGUMENT OF RESPONDENT NO.1

According to Respondent No.1 they have been appointed as developer by Respondent No.3 society. The proposal of subject SR Scheme is submitted to Slum Rehabilitation Authority in the year 2005. The Competent Authority issued draft Annexure-II in the year 2009 declaring 166 slum dwellers as eligible. It is further version of Respondent No.1 that in the year 2010 the subject SR Scheme was included in 3K Scheme of Government of Maharashtra, so Respondent No.1 approached to Hon'ble High Court for carving out their plot from 3K scheme. Through order dated 27.10.2013, the Hon'ble High Court carved out the subject SR Scheme from 3K scheme. Since the year 2010 to 2015 the proposal for issuance of Annexure-II is completely stalled. At the time of submission, 166 slum dwellers were declared as eligible but due to Government Resolution of the year 2015, the same was increased to 248 eligible slum dwellers.

It is the case of Respondent No.1 that due to non issuance of Annexure-II on the part of MCGM there was delay. It is the version of Respondent No.1 that due to Covid-19 Pandemic from the year 2020 to 2021, 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. In said list the subject SR Scheme was at Sr. No.295. Further the Hon'ble High Court through order dated 10.01.2023 in Writ Petition (L) No.14017 of 2022,



Nipun Thakkar V/s. Chief Executive Officer/SRA & Anr. set aside the public notice dated 20.04.2022. It is further version of Respondent No.1 that during the hearing held on 11.07.2023 the office bearers of Respondent No.3 were present and has shown full trust and support to Respondent No.1 for implementation of subject SR Scheme. On these grounds the Respondent No.1 has prayed to drop the present proceeding initiated against them.

ISSUES

From rival contentions 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 14.12.2005 and certified Annexure-II is not issued till date and the Scheme is stand still. It is submitted on behalf of Respondent No.1 that the delay is not attributable to them but the same has occurred due to non issuance of Annexure-II in time by MCGM. According to Respondent No.1 the Competent Authority published draft Annexure II in the year 2009 holding 166 slum dwellers as eligible. It is further version of Respondent No.1 that in the year 2010 the subject SR Scheme was included in 3K Scheme of Government of Maharashtra, so Respondent No.1 approached to Hon'ble High Court for carving out their plot from 3K scheme and through order dated 27.10.2013, the Hon'ble High Court carved out the subject SR Scheme from 3K scheme.

It is the version of Respondent No.1 that since the year 2010 to 2015 work of Annexure-II was completely stalled. At the time of submission, 166 slum dwellers were declared as eligible but due to Government Resolution of the year 2015, the same was increased to 248 slum dwellers. It is further version of Respondent No.3 that due to

Covid-19 Pandemic from the year 2020 to 2021, the Government had imposed strict restriction due to which they could not take further steps. It is alleged by Respondent No.1 that this Authority had recorded 517 Slum Rehabilitation Schemes through public notice dated 20.04.2022. In said list the subject SR Scheme was at Sr. No. 295. The said public notice was set aside by Hon'ble High Court through order dated 10.01.2023 in Writ Petition (L) No.14017 of 2022, Nipun Thakkar V/s. Chief Executive Officer/SRA & Anr.

The Respondent No.3 Society has not made demand for change of Respondent No.3 developer. The present proceeding is initiated pursuant to note of Engineering department dated 29.03.2023. 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.295. The said Public Notice dated 20.04.2022 is set aside by Hon'ble High Court through order dated 10.01.2023 in Writ Petition (L) No.14017 of 2022, Nipun Thakkar V/s. Chief Executive Officer/SRA & Anr. Though the Respondent No.1 has alleged that at the time of submission 166 slum dwellers were declared eligible, it is admitted fact that the certified Annexure II is not issued till date. Even in written submissions of Respondent No.3 society has admitted that the delay is occurred due to inability of MCGM to issue Annexure-II. As per said written submission it has shown full trust and faith in Respondent No.1 for implementation of subject SR Scheme. According to the Respondent No.1 during the hearing held on 11.07.2023 the office bearers of Respondent No.3 were present and has shown full trust and support to Respondent No.1 for implementation 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. Considering these facts it will not be proper to terminate the Respondent No.1 as developer merely due to non-issuance of Annexure-II by MCGM.

On careful consideration of these facts and circumstances, this Authority is not at all convinced to hold that there is nonperformance on the part of Respondent No.1. In the light of these facts and circumstances, 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 Maharashtra Slum Areas (I, C & R) Act, 1971 against Respondent No.1 i.e. Shree Ganesh Construction in respect of subject SR Scheme i.e. SR Scheme on land CTS No. 86(pt), 87(pt), 88, 89(pt), 91(pt), 106(pt), 107(pt), 285(pt) of Village Borla for "Shree Swami Samarth SRA CHS" are hereby dropped.
2. The Respondent is directed to submit bar chart regarding time bound implementation of the subject SR Scheme.
3. The Competent Authority is directed to issue the Annexure II expeditiously.

Place:- Mumbai

Date:- **4 SEP 2023**


Chief Executive Officer
Slum Rehabilitation Authority

No.SRA/CEO/13(2)/Shree Swami Samarth SRA CHS (Prop)/56/2023

Date: **4 SEP 2023**

Copy to:

1. M/s. Shree Ganesh Construction
601/602, Raikar Chambers,
K.D. Road, Govandi (East),
Mumbai- 400 088
2. M/s. Shah & Associates
A/1, Rajeshri Accord,
Telly Gully Cross Road,
Andheri (East), Mumbai - 400 069
3. Shree Swami Samarth SRA CHS
Chhatrapati Shivaji Maharaj Maidan,
Near Shivaji Gym School,
Chembur- Govandi Road,
Khardev Nagar, Ghatla,
Chembur, Mumbai - 400 071
4. Deputy Chief Engineer/SRA
5. Executive Engineer (MW Ward)/SRA
6. DSLR/SRA
7. Tahsildar-3/SRA
8. Finance Controller/SRA
9. Chief Legal Consultant/SRA
10. Assistant Registrar (E.S.)/SRA
- ✓ 11. IT Officer/SRA

