

SLUM REHABILITATION AUTHORITY

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

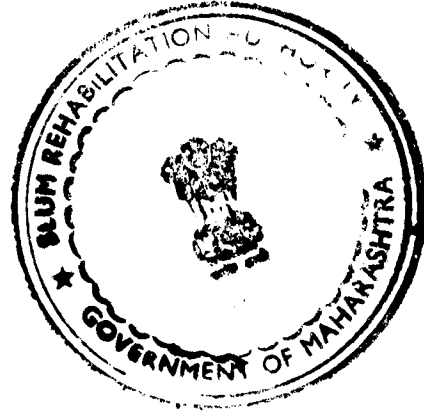
No. RC/MHADA/0013

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. Soham Realtors
Shop No.12, Sai Vihar Chawl,
Sant Gora Kumbhar Road,
Borivali (East), Mumbai 400 066
2. M/s. Aakar,
201, 202, Amiprabha
Devidas Road, Borivali (West),
Mumbai 400 092
3. Sai Nagar SRA CHS (Prop.)
CTS No.213(pt), 214(pt) & 215(pt)
of Village Magathane at Sant Gora
Kumbhar Marg, Devipada,
Borivali (East), Mumbai 400 066



... Respondents

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

ORDER

(Passed on 30 APR 2024)

These Suo Moto proceedings are initiated in respect of Slum Rehabilitation Scheme on land bearing CTS No.213(pt), 214(pt) and 215(pt) of Village Magathane for "Sai Nagar SRA CHS (Prop.)" pursuant to the note of Deputy Chief Engineer/SRA dated 29.11.2023. 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.213(pt), 214(pt) and 215(pt) of Village Magathane formed Respondent No.3 society i.e. "Sai Nagar SRA CHS" 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 27619.11 sq. mtrs. The said land is owned by MHADA. The proposal of subject S.R. scheme is accepted by Slum Rehabilitation Authority on 20.09.2006. However thereafter there is absolutely no progress in subject S.R. Scheme and the Scheme is stand still.

The note of engineering department dated 29.11.2023 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.450. 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 05.03.2024. On said day Mr. Sandesh Dandekar remain present for Respondent No.1. Representatives of Respondent No.3 society 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 seven days.



ARGUMENT OF RESPONDENT NO.1

It is the version of Respondent No.1 that the Respondent No.3 society has appointed them as developer of subject SR Scheme and accordingly they have submitted the proposal in the year 2006. At the time of submission of proposal of subject SR Scheme, there was reservation of Garden/Park. It is further version of Respondent No.1 that due to status quo order of Hon'ble High Court in Writ Petition No.1152 of 2002, they could not proceed further in the subject SR Scheme. The said status quo order of Hon'ble High Court is vacated on 01.03.2022. Thereafter, the Respondent No.1 has processed the proposal of Annexure-II to Competent Authority. In the meanwhile the proposal of subject SR Scheme is recorded through Public Notice dated 20.04.2022. The proposal of subject SR Scheme is at Sr. No.450. It is further version of Respondent No.1 that this Authority has issued Guidelines dated 08.06.2022 to submit the proposal to this Authority. Accordingly the Respondent No.3 society has conducted the General Body Meeting in presence of Co-operative officer of Slum Rehabilitation Authority and reappointed the Respondent No.1 as their developer. The Respondent No.1 has also submitted a bar chart stating that they will complete the subject SR with Occupation Certificate till May 2028. On these grounds the Respondent No.1 has prayed to drop the present proceeding initiated against them.

ARGUMENT OF RESPONDENT NO.3

It is the version of Respondent No.3 that the Respondent No.1 is appointed as developer and the proposal of subject SR Scheme is submitted in the year 2006. At the time of submission of proposal of subject SR Scheme, there was reservation of Garden/Park. It is further version of Respondent No.3 that due to status quo order of Hon'ble High Court in Writ Petition No.1152 of 2002, they could not proceed further in the subject SR Scheme. The said status quo order of Hon'ble High Court is vacated on 01.03.2022. Thereafter, the Respondent No.1

has processed the proposal of Annexure-II to Competent Authority. In the meanwhile the proposal of subject SR Scheme is recorded through Public Notice dated 20.04.2022. The proposal of subject SR Scheme is at Sr. No.450. It is further version of Respondent No.3 that this Authority has issued Guidelines dated 08.06.2022 to submit the proposal to this Authority. Accordingly they have conducted the General Body Meeting in presence of Co-operative officer of Slum Rehabilitation Authority and reappointed the Respondent No.1 as their developer. According to Respondent No.3 they have no any grievance against Respondent No.1 in further implementation of subject SR Scheme. On these grounds the Respondent No.3 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 20.09.2006. Thereafter no permissions are issued and the Scheme is stand still. It is submitted on behalf of Respondent No.1 that at the time of submission of proposal of subject SR Scheme, there was reservation of Garden/Park. It is further version of Respondent No.1 that they could not proceed with the scheme due to status quo order of Hon'ble High Court in Writ Petition No.1152 of 2002 (Citi Space). The said status quo is vacated by Hon'ble High Court on 01.03.2022. It is further version of Respondent No.1 that after vacating the said status quo order they processed the proposal of Annexure-II to Competent Authority.

According to Respondent No.3 they do not wish to terminate the appointment of Respondent No.1. Even after recording the proposal



subject SR Scheme through Public Notice dated 20.04.2022, they have reappointed the Respondent No.1 as their developer in General Body Meeting as per Guidelines dated 08.06.2022 of SRA.

It appears from say of Respondent No.1 that the said land was carrying reservation of Garden/Park. Considering the fact that there was stay of Hon'ble High Court till the year 2022, the Respondent No.1 cannot be held for delay. The record reveals that the Respondent No.3 society have not made any application for change of developer. The present proceeding is initiated pursuant to note of engineering department dated 29.11.2023. 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.450. 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. As per the written submission of Respondent No.3 they have faith in Respondent No.1 in implementation of subject SR Scheme. The Respondent No.3 society does not wish to change the Respondent No.1 developer. The Respondent No.1 is also ready and willing to complete the subject SR Scheme in time bound manner. The Respondent No.1 has also submitted bar chart on record. As per bar chart they agreed to complete the subject Scheme with Occupation Certificate till May, 2028.

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.

Considering these facts and circumstances this Authority is of opinion that there is no intentional delay on the part of Respondent No.1 and reasonable time needs to be given to Respondent No.1 for implementation of subject SR Scheme. 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. M/s. Soham Realtors in respect of subject SR Scheme i.e. SR Scheme on CTS No.213(pt), 214(pt) and 215(pt) of Village Magathane for "Sai Nagar SRA CHS (Prop)" are hereby dropped.
2. The Respondent No.1 is directed to complete the implementation of subject SR Scheme as per the bar chart submitted by them.
3. The Executive Engineer/SRA shall supervise the subject SR Scheme and ensure the completion as per bar chart.
4. The Respondent No.1 to comply with the provisions of circular no.210 of Slum Rehabilitation Authority before applying for permissions.

Place:- Mumbai

Date:- 30 APR 2024


Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO/13(2)/Sai Nagar SRA CHS (Prop.)/2024 / 44

Date: 30 APR 2024

Copy to:



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of Village Magathane at Sant Gora
Kumbhar Marg, Devipada,
Borivali (East), Mumbai 400 066
4. Deputy Chief Engineer/SRA
5. Executive Engineer (R/C Ward)/SRA
6. DDLR/SRA
7. Deputy Collector (Special Cell)/SRA
8. Finance Controller/SRA
9. Chief Legal Consultant/SRA
10. Assistant Registrar (W.S.)/SRA
11. IT Officer/SRA

