



SLUM REHABILITATION AUTHORITY

BEFORE THE CHIEF EXECUTIVE OFFICER,
SLUM REHABILITATION AUTHORITY

SRA/ENG/1858/PS/MHL/LOI

Dynamic CHS (Prop.)
CTS No.50/A(pt), Survey No.29, 30
of Mauje Pahadi Goregaon, Taluka Borivali,
Old Hanuman Nagar, M.G. Road,
Goregaon (West), Mumbai - 400 104

... Applicant

V/s

1. M/s. Velani Construction
Shop No.178, Opp. Space House,
Ramchandra Lane Extn.,
Malad (West), Mumbai - 400 064
2. M/s. Concept Architects,
512, Highway Commercial Complex,
I.B. Patel Road, Off. W.E. Highway,
Goregaon (East), Mumbai.



... Respondents

ORDER

(Passed on -17/11/23)

The present proceedings are initiated pursuant to application of Applicant dated 19.05.2023 in respect of Slum Rehabilitation Scheme on land CTS No.50/A(Pt), Survey No.29, 30 of Village Pahadi Goregaon (West) for Dynamic CHS (Prop.). 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:

That the slum dwellers residing on land bearing CTS No.50/A(Pt), Survey No.29, 30 of Village Pahadi Goregaon (West)

formed Applicant society i.e. Dynamic CHS (Prop.) and resolved to redevelop the land in their occupation by implementing the Slum Rehabilitation Scheme. Accordingly Applicant society appointed Respondent No.1 as Developer and Respondent No.2 as Architect for redevelopment. Pursuant to appointment, the Respondent No.1 submitted proposal of subject SR Scheme to Slum Rehabilitation Authority and it was duly accepted on 31.05.2006. The land under the subject SR Scheme admeasuring 6389.50 sq. mtrs. is owned by MHADA.

The record reveals 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.407. 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.

The Applicant submitted application dated 19.05.2023 for termination of appointment of Respondent No.1 as Developer on the ground of inordinate delay and non-performance in subject SR Scheme. So the notice of hearing was issued and matter was heard on 31.08.2023 & 14.09.2023. On 14.09.2023 office bearers of Applicant society remain present alongwith Advocate Anand Sangvikar. None for Respondent No.1 present. Advocate Arun Panickar remain present Suo-Moto for M/s. Royal Netra Construction Pvt. Ltd. Parties are heard at length and matter was closed for order.

ARGUMENT OF APPLICANT SOCIETY

There are copies of letters dated 19.05.2023 & 18.09.2023 on record. According to Applicant, they have formed Applicant society for redevelopment of land in their occupation and



accordingly they have passed resolution for appointment of Respondent No.1 as developer. It is further version of Applicant society that the proposal of subject SR Scheme is duly accepted by this Authority on 31.05.2006. After appointment of Respondent No.1, there is no progress shown in subject SR Scheme, so the Applicant society through General Body Resolution dated 11.06.2023 terminated the appointment of Respondent No.1 as developer. The Applicant has prayed for appointment of authorized officer of SRA for conducting General Body Meeting for appointment of new developer of subject SR Scheme. It is further version of Applicant that the Respondent No.1 has issued NOC dated 30.08.2023 stating that they are unable to redevelop the said land, so their appointment may be cancelled and they have also no objection if society appoints new developer.

There is another copy of letter dated 08.09.2023 on record. In said letter it is mentioned that the dispute in between society and developer is resolved and now they are willing to implement the subject SR Scheme through M/s. Velani Construction and M/s. Royal Netra Construction Pvt. Ltd.

CASE OF RESPONDENT NO.1

There is copy of letter/NOC dated 30.08.2023 on record. In letter dated 30.08.2023 the Respondent No.1 has stated that they are unable to redevelop the said land, so their appointment may be cancelled and they have also no objection if society appoints new developer.

ISSUES

From facts 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 SR Scheme of Applicant society.

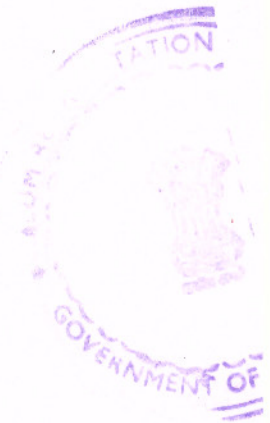
REASONS

The slum dwellers residing on land bearing CTS No.50A(Pt), Survey No.29, 30 of Village Pahadi Goregaon (West) formed Applicant society and appointed Respondent No.1 as developer to implement the SR Scheme on land in its occupation. The proposal of subject SR Scheme of Applicant is submitted to Slum Rehabilitation Authority and it was duly accepted on 31.05.2006. Thereafter the Respondent No.1 has not taken any steps. Thus the SR Scheme of Applicant society remain stand still.

The record reveals that in the meanwhile this 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 S.R. Scheme is at Sr. No.407. 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 pertinent to note that while quashing the Public Notice dated 20.04.2022, the Hon'ble High Court in order dated 10.01.2023 in para 13 have made following observation:

"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".

From above observation of Hon'ble High Court, it is crystal clear that the Hon'ble High Court has not restricted or constrained the powers of this authority to take action in accordance with law, where justified. In other words, this Authority is having powers to take action in case of inordinate delay.



The Applicant society by its General Body Meeting dated 11.06.2023 resolved to terminate the appointment of Respondent No.1. There is no progress at all and scheme is stand still. It is pertinent to note that Applicant through letter dated 18.09.2023 has submitted copy of NOC dated 30.08.2023 issued by Respondent No.1 on record. According to Applicant, the Respondent No.1 has issued NOC dated 30.08.2023 stating that they are unable to redevelop the said land, so their appointment may be cancelled and they have no objection if society appoints any developer.

There is another copy of letter dated 08.09.2023 on record. In said letter it is mentioned that the dispute in between society and Respondent No.1 is resolved and now they are willing to implement the subject SR Scheme through M/s. Velani Construction and M/s. Royal Netra Construction Pvt. Ltd.

During the hearing Advocate Arun Panickar appeared Suo-Moto on behalf of one M/s. Royal Netra Constructions and submitted copy of written submission dated 14.09.2023 on record. It is the version of Advocate Arun Panickar that the majority of the slum dwellers of Applicant society has granted their consent in favour of M/s. Royal Netra Constructions for redevelopment of said land and therefore they requested to terminate the appointment of Respondent No.1 of subject SR Scheme.

In proceedings u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 it is not necessary to take cognizance of interveners who have no locus in respect of SR Schemes. This Authority has to decide whether there is inordinate delay in subject SR Scheme and whether same is attributable to developer or not.

Since appointment of Respondent No.1 in the year 2006, the period of around 17 years has passed but till date no approvals are obtained by Respondent No.1. Even the Annexure-II is not

obtained. There is no progress at all and scheme is stand still. Due to delay on the part of developer the noble object behind introducing the S.R. Scheme is getting frustrated. This Authority being a Planning and Project Management Authority can't be a mute spectator to such nonperformance. In this regard the observation of Hon'ble High Court in order dated 01.03.2013 in Writ Petition No.2349 of 2012 M/s. Hi Tech India Construction V/s. Chief Executive Officer/SRA are relevant. In said case the developer was terminated by the Chief Executive Officer/SRA on account of delay of 3 years. The said termination was upheld by High Power Committee. The order of High Power Committee was challenged by developer through said Writ Petition. The Hon'ble High Court upheld the termination. The observation of Hon'ble High Court in para 5 of said order are relevant and same are reproduced as it is for convenience;

"The mere issuance of the letter dated 15th May, 2008, would not indicate that there was no delay on the part of the petitioners. These are slum rehabilitation schemes. It is for the developers to pursue the matter and to ensure that the scheme is implemented without delay. Developer cannot, by merely addressing letters to the authorities, sit back and contend that they had nothing more to do in the matter till they received a reply."

This Authority being a Planning and Project Management Authority is under legal obligation to see that the scheme is completed within reasonable time. In the event of nonperformance and inordinate delay, this Authority is bound to take necessary action. The observation of Hon'ble High Court in Appeal from Order No.1019 of 2010, Ravi Ashish Land Developers Ltd. V/s Prakash Pandurang Kamble and Anr. are relevant. The relevant observation of Hon'ble High Court 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."

For appointment of new developer it is necessary to pass General Body Resolution with requisite consent in presence of authorized officer of Slum Rehabilitation Authority in accordance with circular no.169 of Slum Rehabilitation Authority. It is pertinent to note that Applicant has submitted the copy of letter/NOC dated 30.08.2023 issued by Respondent No.1 on record. In said NOC the Respondent No.1 has granted their no objection to terminate them as developer from the SR Scheme of Applicant society. Further they have also granted no objection for appointment of new developer.

Considering the Resolution passed by society and lack of faith of eligible slum dwellers in Respondent No.1 as well as NOC of Respondent No.1, it will be just and proper to terminate them as developer of subject SR Scheme and direct the society to hold General Body Meeting in presence of authorized representative of

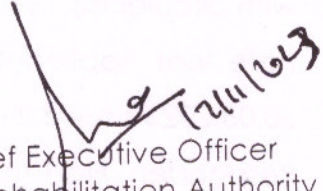
Co-operative department of Slum Rehabilitation Authority and to take decision with majority in respect of appointment of new developer. Accordingly, this Authority proceeds further to pass following order;

ORDER

1. The appointment of Respondent No.1 i.e. M/s. Velani Construction is terminated as developer of subject SR Scheme i.e. SR Scheme on CTS No.50/A(Pt), Survey No.29, 30 of Village Pahadi Goregaon (West) for Dynamic CHS (Prop.).
2. The society i.e. Dynamic CHS (Prop.) is at liberty to appoint new developer by passing fresh General Body Meeting in presence of authorized officer of Slum Rehabilitation Authority in accordance with circular no.169 of Slum Rehabilitation Authority.
3. The new incoming developer to reimburse the actual expenses incurred by Respondent No.1 as per provisions of section 13(3) of the Maharashtra Slum Areas (I, C & R) Act, 1971.

Place:- Mumbai

Date:- **17 NOV 2023**

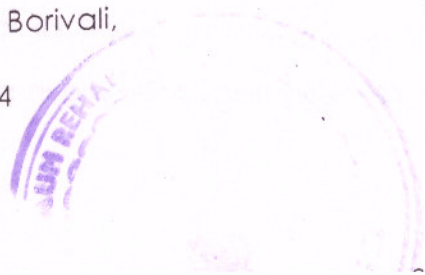

Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO Order/ Dynamic CHS (Prop.)/7/2023

Date: **17 NOV 2023**

Copy to:

1. Dynamic CHS (Prop.)
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of Mauje Pahadi Goregaon, Taluka Borivali,
Old Hanuman Nagar, M.G. Road,
Goregaon (West), Mumbai - 400 104



2. M/s. Velani Construction
Shop No.178, Opp. Space House,
Ramchandra Lane Extn.,
Malad (West), Mumbai - 400 064
3. M/s. Concept Architects,
512, Highway Commercial Complex,
I.B. Patel Road, Off. W.E. Highway,
Goregaon (East), Mumbai.
4. Dy. Chief Engineer/SRA
5. Executive Engineer (P/S Ward)/SRA
6. Deputy Collector (Spl. Cell)/SRA
7. Financial Controller/SRA
8. Joint Registrar (W.S.)/SRA
9. DDLR/SRA
- ✓ 10. Information Technology Officer/SRA
11. Chief Legal Consultant/SRA