



SLUM REHABILITATION AUTHORITY

BEFORE THE DEPUTY COLLECTOR (ES)

SLUM REHABILITATION AUTHORITY, MUMBAI.

FILE NO. SRA/ENG2080/ME/ML/LOI/Case No.91/2018

Slum Rehabilitation AuthorityApplicant

V/s

1. M/s S.P Erectors & Developers

Unit 420[, 4th Floor, Laxmi
Plaza, Laxmi Industrial
Estate, New Link Road,
Andheri (W), Mumbai-400053

2. Ellora Project Consultants Pvt. Ltd.

Ridhi Sidhi Complex, 'C' WING
1ST Floor, Kamraj Nagar, Near
Municipal School, Goregaon (W)
Mumba- 400062.

..... Respondents

**Sub: Proceedings under
Section 13(2) of Slum
Areas (I,C & R) Act, 1971.**

(Order passed on 01/12/2018)

These proceedings are initiated pursuant to the letter of Executive Engineer-III, SRA dated 16/10/2018 in respect of slum rehabilitation scheme on land CTS no. 7 (pt) of village Borla for Shree Sai Sahkari Grihnirman Sanstha CHS, Gautam Nagar Colony, Borla Village, Govandi, Mumbai-400043 on account of Non-performance and inordinate delay by Respondent no. 1. Hereinafter the above said slum rehabilitation scheme is referred to and called as subject S.R. scheme.

BRIEF FACTS

That the land C.T.S. No. 7(pt) of village Borla, Govandi is owned by MCGM and the area admeasuring around 1086.80 sq. mtrs. is encroached by 66 slum dwellers since long. The slum situated on said land is a census slum. The slum dwellers residing on said part of land resolved to redevelop the land in their occupation by implementing the slum rehabilitation scheme and formed Shree Sai Sahkari Grihnirman Sanstha CHS. The said society in General Body Meeting passed resolution and appointed the respondent no. 1 as developer and respondent no. 2 as architect for redevelopment. Thereafter the society executed development agreement, power of attorney and individual consent in favour of Respondent no. 1 so as to enable him to submit the proposal for redevelopment to slum rehabilitation authority. Pursuant to the appointment the respondent no. 1 submitted the proposal of subject slum rehabilitation scheme to the Slum Rehabilitation Authority and the same is duly accepted on 24/11/2008. Thereafter the draft Annexure-II was forwarded to Competent Authority for certification on 08/04/2009. However thereafter there is absolutely no progress and the slum rehabilitation scheme is stand still. The period of almost 10 years has passed since the acceptance of proposal. So the Executive Engineer-III through letter dated 19/09/2018 directed the Respondent no. 1 to submit Bar Chart for progress and clarification for delay within 15 days. But there was no response from respondents. So Executive Engineer-III through letter dated 16/10/2018 informed this authority for further necessary action in the matter. So this authority issued a show cause notice dated 24/10/2018 calling upon the respondents show cause as to why the

action u/s 13 (2) of slum act should not be taken against them.

HEARING AND ISSUES:

In response to notice the respondent no. 1 duly appeared through Mr. Bharat Mehta. Though the copy of notice was also sent to the Chief Promoter, nobody appeared for society. The Assistant Engineer Mr. Salve remain present from Engineering Department. Heard both of them.

ARGUMENT OF DEVELOPER:

According to the Respondent no. 1 the Assistant Commissioner M (East) has completed the certification of Annexure-II and same is forwarded to Estate Department of MCGM on 10/07/2018 for payment of land premium. It is further version of Respondent no. 1 that time to time they have forwarded the letters and reminders to Estate Department but there is no response from Estate department and the Respondent no. 1 be given 30 days' time to take necessary steps. The representative of Respondent no. 1 Mr. Bharat Mehta submitted that there is no intentional delay on the part of Respondent no. 1 and prayed to drop the proceedings.

ISSUES AND DISCUSSION:

From the facts and circumstances on record the issue that arise for determination of this authority is as to whether there is inordinate delay and non-performance on the part of Respondent no. 1.

It is admitted fact that the proposal of subject slum rehabilitation scheme is accepted in the year 2008 and period of almost 10 years has



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passed. It is also not in dispute that even after lapse of 10 years the Respondent no. 1 has not completed the preliminary formality of obtaining the certified Annexure-II. In this regard the Respondent no. 1 has contended that the Assistant Commissioner has forwarded the Annexure-II to Estate Department of MCGM on 10/07/2018 for payment of land premium. The representative of Respondent no. 1 submitted that time to time they have made correspondence with Estate Department and forwarded reminders for paying the land premium but there is no response on the part of Estate Department.

Now the question arise as to whether the developers implementing the slum rehabilitation scheme should be allowed to execute the same with such a snail speed. Because the object of government behind introducing the slum rehabilitation scheme is to uplift the life and leaving condition of poor slum dwellers languishing in dirt and filth for years together. If the slum rehabilitation schemes are allowed to be implemented with such speed then the noble object of government behind the slum rehabilitation scheme is bound to be frustrated. When the Respondent no. 1 has accepted the responsibility of redevelopment of said slum it is their duty to take necessary steps and to complete the subject slum rehabilitation scheme within reasonable period.

In this regard, the observation of Hon'ble High Court in Writ Petition No. 2349 of 2012 - M/s. Hi Tech India Constructions- v/s - Chief Executive Officer, Slum Rehabilitation Authority are relevant. In said Writ Petition, the Hon'ble High Court has observed that the developers implementing the slum rehabilitation schemes are expected to complete the schemes within reasonable period and

they cannot by merely addressing letters to the authorities sit back and contend that they had nothing more than to do in the matter till they received a reply. In said case the developer was terminated on account of delay of three years in implementation of slum rehabilitation scheme. The termination is upheld by Hon'ble High Court. For the sake of convenience, the Para-5 of the said order is reproduced as it is.

"Para 5: 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. Developers 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."

In view of the aforesaid ratio of Hon'ble High Court the delay 10 years occurred in present case cannot be justified by any stretch of imagination. Moreover, there is no any justifiable explanation forth coming from the respondent no. 1. In view of these facts and circumstances, this Authority has come to the conclusion that there is non-performance and inordinate delay on the part of respondent no. 1. The delay occurred due to incompetence of respondent no. 1 will have to be termed as intentional delay. Further the Hon'ble High Court in Appeal Form Order No. 1019 of 2010 M/s. Ravi Ashish Land Developers- v/s-Mr. Prakash Kamble & Anr. has observed as under:

"When the slum rehabilitation projects which are undertaken by the statutory authority enjoying enormous statutory power, are incomplete



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even after twenty years of their commencement, then it speaks volume of the competency 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 developer to complete the project. They are not helpless in either removing the slum dwellers or the developer. The speed with which they remove the slum dwellers from 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. ".....". The Slum Rehabilitation Authority has been conferred with the powers and each one of them coupled with a duty. If the slum dwellers are eligible to be entitled to be rehabilitated at site and within a reasonable period, they cannot be left at the mercy of developer and builders. ".....". The slum dwellers expect that the authorities like SRA should take note of their grievances without any fear, favour and affection towards any set of developer. An independent and impartial implementation and supervision so also monitoring of the projects is the purpose for which the authority has been set up"

This Authority being a Planning and Project Management Authority cannot be mute spectator to such incompetence. It is the duty of Slum Rehabilitation Authority to see that the slum rehabilitation schemes are implemented in time bound manner and slum dwellers are rehabilitated within reasonable time. It will be just and proper to terminate the respondent no.1 as developer of



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subject slum rehabilitation scheme. Hence, in exercise of powers delegated to this Authority by Hon'ble Chief Executive Officer/SRA under Section 3(s) of Maharashtra Slum Areas (I.C. & R) Act, 1971 vide order dated 16.03.2016, this Authority proceed to pass the following order.

ORDER

1. The appointment of respondent no.1 as developer in respect of subject slum rehabilitation scheme i.e. S.R. Scheme of land CTS No. 7(pt) of Village Borla, P.L. Lokhande Marg, for Shree Sai Sahkari Grihnirman Sansth stands terminated.
2. The society is at liberty to appoint new developer of their choice within period of three months and to implement the slum rehabilitation scheme as per Rule.
3. The new developer shall reimburse the actual expenses incurred by the respondent no. 1 in respect of subject slum rehabilitation scheme till date.



Uday Singh
Deputy Collector (ES) 1.12.18
Slum Rehabilitation Authority.
Mumbai.

No.SRA/Dy.Collector(ES/SaiSahkari CHS & Ors.3/
/2018.OW/2018/20976

1 DEC 2018

Copy to:

1. Shree Sai Sahkari Grihnirman Sansth
2. M/s. S.P.Erectors & Developers Pvt. Ltd.
Unit No.420, 4th floor, Laxmi Plaza,