



SLUM REHABILITATION AUTHORITY

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



1. Panchvati Sahkari Griha Nirman Sanstha
Jaihind Nagar, Khar (East), CTS No. 373
& 375 of Village Bandra (E),
Mumbai- 400051.

2. M/s. Mighty Engineers, Developers & Contractors,
163, Dwarkabhai Tower, Bhagat Lane,
Mahim, Mumbai - 400 016

... Applicants

V/s

M/s Shivalik Ventures Pvt. Ltd.
1, Ground Floor, J.V. House,
D.S. Babrekar Road, Dadar (West),
Mumbai - 400 028.

... Respondent

ORDER

[Passed on - 18.01.2018]

This proceeding is initiated as per order dated 30.01.2015 passed by the Hon'ble High Power Committee in Appeal No.6 of 2014 filed by Applicants i.e. Panchavati CHS & M/s. Mighty Engineers Developer and Contractors, against the Respondent i.e. M/s. Shivalik Ventures Pvt. Ltd., whereby the Hon'ble High Power Committee has directed this authority as under;

(i) to determine whether due diligence has been shown by M/s. Shivalik Venture in the redevelopment of the Scheme sanctioned by the Government of Maharashtra u/s 3 K (1) of the Maharashtra Slum Areas (I.C.&R.) Act, 1971 vide order dated 29.08.2008

(ii) If this authority is of the view that, due diligence has been shown by M/s. Shivalik Venture, then no further investigation to be carried out and the application filed by the Mighty Engineers, Developers & Contractors on behalf of Panchavati SRA CHS (Prop.) for redevelopment of plot bearing CTS No.373 & 375 admeasuring about 1582 sq. mtrs. situated at Western Express, Jaihind Nagar, Khar (East), Mumbai be recorded.

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(iii) If this authority concludes that no due diligence is shown by the M/s. Shivalik Ventures, then the Application filed by the M/s. Mighty Engineers, Developers & Contractors is required to be taken to its logical end by examining all the restrictions and if this authority is of the opinion that independently it is feasible and possible to execute the SR Scheme submitted by Mighty Engineers, Developers & Contractors on behalf of Panchavati CHS, then this Authority redefine the boundary of the Scheme as sanctioned by the Government of Maharashtra u/s 3 K (1) of the Slum Act vide order dated 29.08.2008 and the same be submitted before the Government of Maharashtra for approval. Hence the present hearing.

FACTS IN BRIEF

The Government of Maharashtra issued order dated 29.08.2008 under section 3 K of the Maharashtra Slum Areas (I C & R) Act, 1971 in respect of plot of land bearing CTS No.13 (pt), 34, 35, 45, 188, 189, 333, 334, 373, 374 and 375 of Village Bandra in favour of M/s. Shivalik Ventures Pvt. Ltd. The said M/s. Shivalik Ventures Pvt. Ltd. has proposed integrated SR Scheme in respect of large slum area at Golibar, Khar, Santacruz (East) u/s 3 K of the Slum Act. With reference to the representation of M/s. Shivalik Ventures Pvt. Ltd. and report submitted by SRA to Government of Maharashtra, Government of Maharashtra has issued special directions to SRA and Competent Authority u/s 3 K of the said Act for expeditious implementation of the said integrated SR Scheme. The said direction stated that, the land bearing CTS No.373 & 375 of Village Bandra (East) belonging to Government of Maharashtra shall be included in the SR Scheme to be implemented by M/s. Shivalik Ventures Pvt. Ltd by recovering land premium as per provisions of modified clause 1.11 under Appendix - IV of DCR 33 (10). The abovementioned directions have been issued by the State Government of Maharashtra to facilitate planned development of the large slum area at above place by integrating the Slum area under individual societies into one Scheme. M/s. Shivalik Ventures Pvt. Ltd. has submitted letter dated nil regarding proposed SR Scheme on CTS No.373 (pt) & 375 (pt) of Village Bandra, Golibar, Mumbai 400 055 for Shree

Ja Ganesh CHS (Prop.), with remarks of Head Clerk/SRA on 21.10.2011, "as per computerized record maintained in the SRA, there is no scheme found on CTS No. 373 (pt) & 375 (pt) of Village Bandra, Golibar in H/East Ward till date.

CTS No.373 and 375 forming part of the integrated redevelopment scheme sanctioned by the Government of Maharashtra order dated 29.08.2008. The M/s. Shivalik Ventures Pvt. Ltd. has submitted the SR Schemes for 51 societies in nearby CTS numbers of Golibar, Village Bandra. Occupants of CTS Nos.373 & 375 of Village Bandra formed Panchavati CHS (Prop.) i.e. Applicant No.1 and resolved on 23.01.2011 to redevelop the land in their occupation by implementing the Slum Rehabilitation Scheme. Accordingly, M/s. Mighty Engineers, Developers & Contractors i.e. Applicant No.2 was appointed as Developer. The land in occupation of Applicant is admeasuring 1582.80 sq. mtrs. and the same is owned by State Government. The slum situated on said plot of land is "censused Slum". Pursuant to appointment, the M/s. Mighty Engineers, Developers & Contractors submitted the proposal to Slum Rehabilitation Authority and the same was accepted on 24.05.2012. Thereafter, the draft Annexure II of the Panchavati CHS (Prop.) was forwarded by Deputy Collector/SRA on 31.05.2012 to the Additional Collector (Enc./Rem.), Western Suburbs for certification and issuance.

Thereafter, M/s. Shivalik Venture vide letter dated 18.07.2012 objected with regard to the acceptance of the proposal of the SR Scheme on land bearing CTS No.373 & 375 of Village Bandra, admeasuring 1582 sq. mtrs submitted by the M/s. Mighty Engineers, Developers & Contractors for Panchavati CHS on the ground that the said proposal of the M/s. Mighty Engineers, Developers & Contractors has been wrongly accepted by the SRA, since the plot of land is covered by the larger plot of land in the order issued by the Government of Maharashtra dated 29.08.2008 u/s 3 K of the Slum Act and therefore requested the SRA to revoke/cancel and/or to record the proposal submitted by M/s. Mighty Engineers, Developers & Contractors for Panchavati CHS (Prop.). Pursuant to the objection raised by M/s. Shivalik Ventures Pvt. Ltd., the Deputy Collector/SRA vide letter dated

23.07.2012 informed the Controller (Enc./Rem.), MCGM that till final decision is taken in the matter, the process of certification Annexure II stayed.

The proposal of Panchavati CHS (Prop.) on the same land appear to have been accepted inadvertently, since as per the Head Clerks/SRA remarks, no proposal was accepted on CTS No.373 & 375 as per computerized record maintained in SRA and therefore the then CEO/SRA on 24.08.2012 passed an order **"when one scheme is already there how can we accept another scheme and subsequent scheme of M/s. Mighty Engineers, Developers & Contractors should be recorded"**

Panchavati CHS (Prop.) has filed Writ Petition No.850 of 2013 before the Hon'ble High Court and prayed to conduct hearing in pursuance to letter dated 23.07.2012 issued by SRA within a period of 2 weeks and further prayed to proceed with the verification of preparation of Annexure II. The said Writ Petition No.850 of 2013 was heard on 20.06.2013 and following order was passed.

"The learned Advocate appearing on behalf of Respondent No.2 states that they will grant the Petitioners, hearing in respect of letter dated 23.07.2012 referred in prayer clause (a) of the Petition and take a decision in respect thereof within 8 weeks from today.

The statement is accepted. Needless to add that Respondent No.2 will also hear any other necessary/concern parties."

Pursuant to the order passed by the Hon'ble High Court dated 20.06.2013, the CEO/SRA after hearing the concern parties passed following order on 20.01.2014 ;

"The order passed by the then CEO/SRA dated 24.08.2012 to record the scheme submitted by the Applicant society through the developer M/s. Mighty Engineers Developers & Contractors on plot of land bearing CTS No.373 & 375 of Village Bandra (East), Taluka Andheri admeasuring 1582.20 sq. mtrs. stands confirmed.



In view of the order dated 24.08.2012 passed by the CEO/SRA, the letter dated 23.07.2012 issued by the Deputy Collector/SRA stands valid and in order.

The request of the Applicant society to process the verification of Annexure II of their society stands rejected."

The aforesaid order dated 20.01.2014 was challenged by Panchavati CHS (Prop.) & M/s. Mighty Engineers, Developers & Contractors before the Hon'ble High Court in Writ Petition No.1073 of 2014. The Hon'ble High Court was pleased to pass following order on 25.07.2014;

"Mr. Thorat, the learned counsel appearing on behalf of the petitioners and Mr. Dhakepalkar, the learned senior counsel appearing on behalf of respondent no.5 agree that the matter may be considered by the High Power Committee which shall not comprise of the Chief Executive Officer, SRA who has passed the Impugned order. Accordingly, the petitioners' case shall be taken up by the High Power Committee to be constituted in the usual manner, except the Chief Executive Officer"

Pursuant to aforesaid order dated 25.07.2014, Panchavati CHS (Prop.) & M/s. Mighty Engineers, Developers & Contractors have filed an Appeal No.6 of 2014 before Hon'ble High Power Committee. On 17.11.2014, M/s. Shivalik Ventures Pvt. Ltd. paid the scrutiny fees amount of Rs.1,500/- in respect of the CTS No.373, 374 & 375 of Village Bandra (East), at Golibar Road, Santacruz (East), Mumbai 400 055. In the present case, meeting was in presence of 01.12.2014 held before the Hon'ble Chief Minister, Government of Maharashtra.

In the said Appeal Hon'ble High Power Committee passed order dated 30.01.2015 and issued the following directions;

"(i) CEO/SRA shall determine whether due diligence has been shown by Respondent No.5 M/s. Shivalik Venture in the redevelopment of the Scheme




sanctioned by the Government of Maharashtra u/s 3 K (1) of the Maharashtra Slum Areas (I.C.&R.) Act, 1971 vide order dated 29.08.2008.

(ii) if CEO/SRA is of the view that, diligence has been shown by respondent No.5 M/s. Shivalik Ventures in the redevelopment of the Scheme sanctioned by the Government of Maharashtra u/s 3 K (1) of the Maharashtra Slum Areas (I.C.&R.) Act, 1971 vide order dated 29.08.2008 in favour of the Respondent No.5, then no further investigation to be carried out and the application filed by the Applicant Developer, Mighty Engineers, Developers & Contractors on behalf of Panchavati SRA CHS (Prop.) for redevelopment of plot bearing CTS No.373 & 375 admeasuring about 1582 sq. mtrs. situated at Western Express, Jaihind Nagar, Khar (East), Mumbai be recorded.

(iii) However, if the CEO/SRA concludes that no due diligence is shown by the M/s. Shivalik Ventures for redevelopment of the Scheme sanctioned by the Government of Maharashtra u/s 3 K (1) of the Maharashtra Slum Areas (I.C.&R.) Act, 1971 vide order dated 29.08.2008, then the Application filed by the Applicants M/s. Mighty Engineers, Developers & Contractors on behalf of Panchavati CHS for redevelopment of plot bearing CTS No.373 & 375 admeasuring about 1582 sq. mtrs. situated at Western Express, Jaihind Nagar, Khar (East), Mumbai is required to be taken to its logical ends after examining all the restrictions and if CEO/SRA is of the opinion that independently it is feasible and possible to execute the SR Scheme submitted by the Appellants M/s. Mighty Engineers, Developers & Contractors on behalf of Panchavati CHS, then the CEO/SRA to redefine the boundary of the Scheme as sanctioned earlier by the Government of Maharashtra u/s 3 K (1) of the Slum Act vide order dated 29.08.2008 and accordingly the same be submitted before the Government of Maharashtra for approval."

Pursuant the said direction the hearing was held before the then CEO/SRA. On 24.04.2015. The architect for Panchavati SRA CHS was directed to submit the plan and report were called of from following issues:

"1. Inquiry in respect of rent by Shivalik Ventures Pvt. Ltd., whether any rent is due by AR of Golibar case.




2. Assistant Engineer shall give remark about viability after receiving plan from architect of Panchavati SRA CHS

3. Annexure II Survey should be made only in respect of eligibility for subject SR Scheme."

Thereafter the hearing was kept on 26.09.2016, the same was adjourned from time to time.

In the meantime meeting was held before the then CEO/SRA on 12.10.2015, wherein the then CEO/SRA has directed M/s. Shivalik Ventures Pvt. Ltd. to obtain LOI of the entire 3K boundary excluding Central Govt. land & existing authorized buildings.



On 07.11.2016 another direction was issued by the then CEO/SRA to Engineering Department to submit detailed report of viability. Accordingly report was submitted by Sub Engineer/SRA during hearing on 09.01.2017. The report of Sub Engineer was not in detail and proper conclusion, therefore another direction was issued on 30.01.2017 by the then CEO/SRA to Dy.C./SRA and E.E./SRA to submit their report within a month. The said report was not submitted hence another directions were issued to E.E. /SRA to submit report regarding viability of scheme and whether the scheme is permitted in same vicinity and area. Accordingly EE/SRA has submitted report on 20.04.2017. Thereafter the matter was adjourned to 26.04.2017, 28.06.2017 and 05.06.2017. During the hearing held on 05.06.2017 another direction were issued to Dy.C./SRA to submit map along with LOI and 3k order. Due to the retirement of the then CEO/SRA the matter was heard by this Authority on 09.11.2017. After hearing the parties at length matter was closed for order.

HEARING:

Advocate Surana appeared for Applicant No.1 society and Applicant No.2 Developer. Advocate Shelke appeared for Respondent. Both the parties filed their Written Submission. Both the parties argued the matter at length.



ARGUMENTS OF APPLICANT No.1 SOCIETY VIZ. PANCHAVATI CHS AND APPLICANT NO.2 M/S MIGHTY ENGINEERS, DEVELOPERS AND CONTRACTORS.

Applicants stated that the Government of Maharashtra issued directives u/s 3k of the Slum Act in favour of Respondent, M/s. Shivalik Ventures Pvt. Ltd. on condition of that M/s Shivalik ventures Pvt. Ltd. shall obtain LOI from SRA as per rules regulations and guidelines of SRA under the Slum Act. M/s. Shivalik ventures Pvt. Ltd. have obtained LOI in respect of CTS No.13 (pt) and 33 (pt) for Pragati Mandal SRA CHS and 8 other societies. M/s. Shivalik ventures Pvt. Ltd. have also obtained revised LOI for Phase II of Nehru Nagar SRA CHS and 6 other societies on CTS No. 24(pt), 27 (pt) and 21 (pt). M/s. Shivalik ventures Pvt. Ltd. have also obtained Revised LOI for Bachchidevi CHS and 6 other Societies on CTS No. 30 (pt) including earlier 9 Societies. M/s. Shivalik ventures Pvt. Ltd. obtained LOI of 25 societies on plot bearing CTS Nos. 17 (pt), 19 (pt), 13 (pt), 33 (pt), 24 (pt), 27 (pt), 29 (pt) and 30 (pt).

The Applicants stated that the Government of Maharashtra has issued letter to the CEO/SRA for inclusion of several Government properties u/s 3 K proposal of M/s. Shivalik Ventures Pvt. Ltd. as per guidelines, rules and regulations for submission of SR Scheme. LOI for phase IV of 21 more societies on property excluding CTS No.373 & 375 as M/s. Shivalik Ventures Pvt. Ltd. submitted proposal on that date. M/s. Shivalik Ventures Pvt. Ltd. did not submit any proposal on CTS No.373 & 375 of Village Bandra for occupants residing on said property as the M/s. Shivalik Ventures Pvt. Ltd. was not interested to amalgamate/include CTS No. 373 & 375 for redevelopment of occupants residing on CTS No.373 & 375 and therefore occupants of CTS No.373 & 375, came together and formed Applicant No.1, Panchavati CHS and appointed Applicant No.2, M/s. Mighty Engineers, Developer & Contractors as developer and executed Development Agreement and Individual Agreement and also passed GBR. The Applicant No.2 has submitted proposal on 23.02.2012 for Applicant No.1 society formed by occupants of the CTS No.373 and 375. The proposal was received by the SRA.

Thereafter on 01.03.2012, Head Clerk/SRA raised query whether there is any proposal pending on CTS No.373 & 375 of Village Bandra and on the same date, Head Clerk/SRA clearly stated that since there is no record found on any proposal on CTS No.373 & 375, SRA remarked that said proposal can be accepted.

The Applicants stated that, on the basis of GBR, Engineering Department on 10.05.2012, submitted its report to CEO/SRA and clearly stated that there is no proposal found on CTS No.373 & 375 on that date, the said proposal submitted by applicants can be accepted and processed. SRA in the presence of AR's officers, held meeting on 22.05.2012 to verify the 70 % occupants supporting the Scheme submitted by Applicants. SRA issued scrutiny fees receipt dated 24.05.2012 in favour of Applicants and thereby accepted proposal submitted by Applicants on CTS No.373 & 375. On 31.05.2012, SRA forwarded draft Annexure II of Applicants to Competent Authority for verification, approval & certification and issuance of Annexure II in favour of Applicants. The Competent Authority issued Public notice on 17.07.2012 with regard to CTS No. 373 & 375, thereby seeking consents from individual slum dwellers for proposed SR Schemes. SRA for the first time issued notice dated 23.07.2012 in respect of Applicants SR Scheme, as to why the proposal of Applicants should not be recorded on the ground that proposal of M/s. Shivalik Venture Pvt. Ltd. is pending in respect of CTS No.373 & 375.

Applicant stated that, the CEO/SRA without hearing the Applicants recorded Applicants proposal on ground that how can two schemes be accepted and approved on the same property and granted another chance to M/s. Shivalik Ventures Pvt. Ltd. for submission of proposal on CTS No.373 & 375 by 31.12.2013. Revised LOI was issued to the M/s. Shivalik Ventures for 51 societies which are not included the CTS No.373 & 375. As it clearly shows that M/s. Shivalik Ventures have not submitted proposal to SRA and LOI has the list of the societies detail. Applicant No.1 society have filed Writ Petition No.850 of 2013, seeking directions and/or order to CEO/SRA to hear Applicants in respect of recording of the said proposal as per order



dated 20.06.2013. Applicants filed RTI Application, seeking details about project being submitted either by Jai Ganesh SRA CHS or any other society on CTS No. 373 & 375 and whether such proposal has been received by SRA. SRA by letter dated 03.09.2013 replied that no such proposal of Jai Ganesh SRA CHS has been received or found on CTS No. 373 & 375 and no such proposal is pending with SRA of Jai Ganesh SRA CHS for and on behalf of M/s. Shivalik Ventures Pvt. Ltd.

Applicants stated that, the Hon'ble CEO/SRA has heard the parties and by an order dated 20.01.2014 recorded the proposal submitted by the Applicants and stayed the verification of Annexure - II of Applicant No.1 society. The said order was challenged by the Applicants in Writ Petition No. 1073 of 2014, in which Hon'ble High Court on 21.07.2014, directed the HPC to hear the matter. HPC heard the Applicants in Appeal No. 6 of 2014 and issued directions to CEO/SRA.

Applicant stated that, the present proceeding is conducted on the basis of direction passed by the HPC in Appeal No. 6 of 2014 by order dated 30.01.2015. On 24.04.2015, the Hon'ble CEO/SRA has directed SRA (i) to check whether rent is being paid by M/s. Shivalik Ventures Pvt. Ltd. to occupants of Golibar, (ii) directed AE/SRA to give viability report and (iii) to Deputy Collector/SRA to conduct survey of only eligibility occupants. The Architect of Applicants submitted plan as per order dated 24.04.2015. The CEO/SRA after hearing the parties on 07.11.2015 came to know that no occupants have vacated their structure. Therefore, M/s. Shivalik Ventures Pvt. Ltd. have not paid rent to occupants and Engineer Department directed to submit the report on viability. The Applicant further stated that the Engineering Department wrongly informed that the proposal is pending on CTS No. 373 and 375 forming part of 3k proposal approved by Government of Maharashtra for Shivalik Ventures Pvt. Ltd.



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In view of the argument commenced before this Hon'ble Authority the Applicants prayed to decide as to whether there was any proposal submitted by M/s. Shivalik Ventures Pvt. Ltd. on CTS No. 373 and 375.

ARGUMENT OF RESPONDENT VIZ. M/S. SHIVALIK VENTURES PVT. LTD.

The Respondent stated they land bearing CTS No. 373 and 375 forming part of integrated redevelopment scheme sanctioned by Government of Maharashtra u/s 3 K of Slum Act in favour of M/s. Shivalik Ventures Pvt. Ltd. The Respondent further stated that M/s. Shivalik Ventures Pvt. Ltd. carried out integrated redevelopment on Golibar, Bandra-East as per order dated 29.08.2008 and order dated 10.06.2009 passed by the Hon'ble High Court in Notice of Motion No. 232 of 2009 in Writ Petition No. 1152 of 2002.

The Respondent has submitted proposal on CTS No. 373 (pt) and 375 (pt) on 21.10.2011 but the SRA while accepting the proposal of Applicants on 24.05.2012 over looked the proposal submitted by M/s. Shiovalik ventures Pvt. Ltd. By the noting of Engineering Department put up before the Hon'ble CEO/SRA, it was clearly mentioned that the submission of M/s. Shivalik Ventures Pvt. Ltd. proposal is prior to Applicants proposal and the proposal of Applicants was inadvertently accepted. The Respondent further stated that the Hon'ble CEO/SRA on 24.08.2012 recorded the proposal submitted by the Applicants. The Applicants have filed W.P. No. 850 of 2013 without joining M/s. Shivalik Ventures Pvt. Ltd. as a party to the Petition and obtained order on 20.06.2013.

The Respondent stated that the Hon'ble CEO/SRA heard the Applicants and passed an order dated 20.01.2014 and recorded the proposal of Applicants once again. The said order was challenged before the Hon'ble High Court in WP. No.1073 of 2014. The Hon'ble Court was pleased to pass an order on 21.07.2014 directing the Applicants to move before the Hon'ble HPC. Accordingly Appeal No. 06 of 2014 filed by the Applicants before the HPC. The Hon'ble HPC heard the Applicants and passed order on 30.01.2015 with direction to CEO/SRA. During the hearing



held before the then CEO/SRA on 24.04.2015 the Applicants are directed to submit plan on 05.05.2015 and another direction is to AE/SRA to ascertain viability. The said directions were not complied by the Applicants and which was revealed from inquiry made under RTI by M/s. Shivalik Ventures Pvt. Ltd.



The Respondent stated that in the meeting held on 12.10.2015, the then CEO/SRA has issued directions to issue Provisional LOI for entire area included in order dated 29.08.2008 for their Scheme except the area owned by Government of India and also directed to certify Annexure II for remaining Phase II land. The Respondent further stated that in compliance to the said order, they have already paid the land premium including land bearing CTS No.373, 374 & 375.

The Respondent stated that despite of all earlier 3 CEO/SRA, after giving all the opportunity to the Applicants, passed the orders dated 24.08.2012, 20.01.2014 & 24.04.2014. Accordingly Applicants proposal has been recorded. The Respondent further stated that by passing order dated 12.10.2015, the then CEO/SRA directed M/s. Shivalik Ventures Pvt. Ltd. to obtain Provisional LOI of entire 3 K boundary, in the light of the said order, the Applicant's Scheme stands recorded and therefore order dated 30.01.2015 passed by the HPC in Appeal No. 6 of 2014 was complied.



The Respondent submits that, in minutes of 13th meeting of SRA held on 01.12.2014, it is made clear that direction issued vide para 6 (i) of the order 30.01.2015 by Hon'ble HPC has been complied with. The due diligence on the part of M/s. Shivalik Ventures Pvt. Ltd. has been clearly established on record. Therefore it is crystal clear, that the Applicants is causing obstructions and delay in implementation of the SR Scheme as envisaged in order dated 29.08.2008 issued by Government of Maharashtra u/s 3 K of Maharashtra Slum Areas (IC&R), Act 1971 and order of Hon'ble High Court dated 10.06.2009 read with minutes of order dated 10.06.2009. The Respondent therefore requested that all the contentions and submissions of the Applicants be

rejected and further order of recording the proposal if any of the Applicants be passed.

ISSUES :-

In the light of observations of Hon'ble HPC in Appeal No. 6 of 2014, the only issues which are now required to be answered are as follows:

1. Whether due diligence has been shown by M/s. Shivalik Ventures Pvt. Ltd. in the re-development of the scheme sanctioned by Government of Maharashtra u/s 3K(1) of the Slum Act, vide order dated 29.08.2008?
2. If the answer of point no.1 is in-negative, whether the application filed by M/s. Mighty Engineers, Developers and Contractors in respect of CTS Nos. 373 and 375 admeasuring 1582 sq. mtr. can be held to be feasible and possible to execute SR scheme by M/s. Mighty Engineers, Developers and Contractors by carving out the said plots from 3K declaration referred to in the order of the Hon'ble HPC?
3. What final Order?

CONCLUSION & DISCUSSION:-

While considering the facts and circumstances of this case, it is required to be seen that most of the issues raised by the party, even before this Authority, have already been answered by the Hon'ble HPC, while deciding Appeal No. 6 of 2014 by order dated 30.01.2015. The CTS Nos. 373 and 375 (1582 sq. mtr.) is held to be part of 3K declaration of the Government by order dated 29.08.2008. Following observations are relevant for the said purpose:

"CTS No.373 & 375 adm.1582 is situated at one end of the larger plot of land included and form part and parcel of 3 K order dated 29.08.2008. The CEO/SRA recorded proposal on 24.08.2012 on account of objection of M/s Shivalik Venture Pvt. Ltd. The M/s Shivalik Ventures Pvt. Ltd. submitted that on account of various restriction such as water pipe line, DP road reservation and buffer zone of Highway, the scheme submitted by Panchavati CHS

through M/s. Mighty Engineers, Developers and Contractors, is not viable, feasible and stands-alone redevelopment. The plan is submitted by Architect of M/s. Mighty Engineers, Developers and Contractors claiming feasibility separated from portion affected by 3k order."

As such the Hon'ble HPC has limited the scope of enquiry into this matter to the extent whether M/s. Shivalik Ventures Pvt. Ltd. has shown due diligence in implementing the scheme u/s 3K. For this purpose, following facts on record are required to be taken into consideration of diligence or otherwise on the part of the M/s. Shivalik Ventures Pvt. Ltd., following facts are relevant:

Undisputedly CTS Nos. 373 and 375 are included in the notification u/s 3K dated 24.08.2008. Thereafter, M/s. Shivalik Ventures Pvt. Ltd. had taken steps for implementation of SR Scheme. There are in all 51 societies formed by the slum dwellers occupying different CTS nos. falling within the boundaries of 3K declaration. For these societies, M/s. Shivalik Ventures Pvt. Ltd. had started taking steps even the facts narrated below are not disputed by Mighty Engineers, Developers and Contractors or Panchavati CHS. From their pleadings it can be seen that:

- (i) LOI in respect of CTS 13 (pt) and 33 (pt) for Pragati Mandal and 8 other societies was obtained on 07.09.2006.
- (ii) Revised LOI for Phase II in respect of Nehru Nagar and 6 other societies on plot bearing nos. 24 (pt), 27 (pt), 29 (pt) as well as Bachchidevi CHS and 6 other societies on plot bearing CTS No.30 (pt) issued on 12.10.2007.
- (iii) LOI of 25 societies on plot bearing nos. 17 (pt), 19 (pt), 13 (pt), 33 (pt), 24 (pt), 27 (pt), 29 (pt) and 30 (pt) was issued on 17.11.2007.
- (iv) LOI for phase IV of 21 more societies on property excluding CTS nos. 373 and 375 issued on 20.08.2009.
- (v) In the meantime, on 29.08.2008 Government of Maharashtra addressed a letter to CEO/SRA for inclusion of further Government

properties under 3K declaration as per the Rules and Regulations for submission of SR Schemes.

M/s. Shivalik Ventures Pvt. Ltd. submitted an application dated 21.10.2011 for Shree Ganesh CHS (proposed) including CTS Nos. 373 and 375 in the 3K scheme. At that time, the Head Clerk of SRA endorsed "as per computerized record maintained in the SRA, there is no scheme found on CTS No. 373 (pt) & 375 (pt) of Village Bandra, Golibar in H/East Ward till that date.

As such there was no scheme in respect of the said CTS nos. on or before 21.10.2011. M/s. Shivalik Ventures Pvt. Ltd. in pursuance of that Application has paid scrutiny fees of Rs.1,200/- on 17.11.2014. Thereafter, a meeting was held on 01.12.2014 under the Chairmanship of Hon'ble Chief Minister, Government of Maharashtra, for consideration of SR Scheme under 3K scheme which were being implemented by M/s. Shivalik Ventures Pvt. Ltd. and 3 other developers. Satisfaction was expressed in respect of the progress made by M/s. Shivalik Ventures Pvt. Ltd. towards implementation of Special Town Planning project under 3K scheme on Golibar Maidan, Khar, i.e. the present scheme.

Again a Review meeting was taken on 12.10.2015 by SRA under the Chairmanship of CEO/SRA. During that meeting, among other 3K scheme enquiry about progress of present scheme was also made. It was brought on record by Ex. Engineer/SRA that LOI for 51 societies admeasuring 1,18,840 sq. mtrs. was also issued from time to time. At that time, M/s. Shivalik Ventures Pvt. Ltd. proposed master plan of entire 3K boundaries excluding Central Government land and existing societies.

It appears from the Minutes of the said Meeting that M/s. Shivalik Ventures Pvt. Ltd. was directed to obtain provisional LOI for entire 3K scheme excluding Central Govt. land and existing authorized buildings. A Writ Petition No. 1152/2002 was filed by one Citi Space and others has imposed restrictions as to construction on RG and PG etc. M/s. Shivalik Ventures Pvt. Ltd. had moved a Notice of Motion No. 232 of 2009 in the said Writ Petition and by



order dated 10.06.2009, shifting of reservations of RG and PG was allowed by the Hon'ble High Court.

While SR Scheme submitted by M/s. Shivalik Ventures Pvt. In respect of the CTS Nos. 373 and 375 on 21.10.2011. Mighty Engineers, Developers and Contractors submitted a scheme on behalf of Panchavati CHS on 24.05.2012. Initially the scheme was taken for consideration because of endorsement of the Head Clerk of SRA that no other scheme was pending on the CTS nos. 373 & 375. However, M/s. Shivalik Ventures Pvt. Ltd. raised objection on 18.07.2012 pointing out pendency of scheme submitted by them.

While considering the objection and the facts on the record of SRA, the then CEO/SRA passed following Order:

"When one scheme is already there how can we accept another scheme and subsequent scheme of M/s. Mighty Engineers. Developers & Contractors should be recorded"

As such scheme of Mighty Engineers, Developers & Contractors came to be recorded by that order. Though application of Panchavati CHS and Mighty Engineers, Developers & Contractors are claiming that the order was challenged in Writ Petition No. 850 of 2013, It seems from the record of Writ Petition that order dated 24.08.2012 has not been challenged. The order passed in the said Writ Petition relates to the order of Dy. Collector/SRA dated 23.07.2012 to stay certification for Annexure II in favour of Panchavati CHS. The Hon'ble High Court by Order dated 20.06.2013 directed CEO/SRA to hear the parties and order about the said directions issued by Dy. Collector/SRA. Parties were heard and objections were decided by the Hon'ble CEO/SRA on 20.01.2014 and following Order was passed:

"The order passed by the then CEO/SRA dated 24.08.2012 to record the scheme submitted by the Applicant society through the developer M/s. Mighty Engineers Developers & Contractors on plot of land bearing CTS No.373 & 375 of Village Bandra (East), Taluka Andheri admeasuring 1582.20 sq. mtrs. stands confirmed."



In view of the order dated 24.08.2012 passed by the CEO/SRA, the letter dated 23.07.2012 issued by the Deputy Collector/SRA stands valid and in order.

The request of the Applicant society to process the verification of Annexure II of their society stands rejected."

Ultimately, matter came before the Hon'ble HPC in Appeal No. 6 of 2014 and direction was passed on 30.01.2015 with the specific directions as referred to above.

The facts and circumstances discussed above, if considered in the light of the larger projects with 51 societies of slum dwellers, it cannot be said that M/s. Shivalik Ventures Pvt. Ltd. had not shown any diligence in executing the scheme. The Hon'ble HPC has directed CEO/SRA to determine the facts as to due diligence on the part of M/s. Shivalik Ventures Pvt Ltd. For coming to the proper conclusion, overall ground reality of the scheme as on today also will have to be referred from the records available with this office. The scheme covers 7783 structures. The Order as to scheme u/s 3K of the Slum Act was passed on 29.8.2008. The land ownership is of MHADA, private individual and State Government. In all 5572 slum dwellers are declared as eligible slum dwellers (5510 residential, 328 commercial and 122 RC). The process of declaration of eligibility was also going on for quite some time.

As against the parameters, Respondent Developer M/s. Shivalik Ventures Pvt. Ltd. has constructed transit camps and has accommodated 1425 slum dwellers. So far as in all 11 rehab buildings are constructed to accommodate 2033 slum dwellers and full O.C. has also been issued in respect of 7 rehab buildings. In all 70 amenities are provided so far. It appears from the record 5 rehab buildings are not yet completed. In respect of the structures which are already demolished, there were 145 complaints in respect of the non-payment of rent. However, record shows that all these are referred in letter dated 02.11.2016 submitted by Jt. Registrar, Co-operative, SRA. Out of those slum dwellers issue as to 49 slum dwellers has already been

resolved except that of payment of enhanced rent. In respect 48 other slum dwellers are concerned, 37 are already been paid and remaining are asked to submit their Bank detail. If all the facts discussed above, are considered, inference as to due diligence shown by the respondent Developer M/s. Shivalik Ventures Pvt. Ltd. will have to be drawn.

Considering all circumstances and ongoing progress, following Order is passed:

ORDER

1. The Application filed by the Applicant No. 1 - Panchavati CHS & Applicant No. 2 - M/s. Mighty Engineers. Developers & Contractors is hereby rejected.
2. "M/s. Shivalik Ventures Pvt. Ltd. to continue with the scheme under 3K (1) including in respect of CTS Nos. 373 and 375 refer to above with due diligence and complete the same at the earliest."

Date: **18 JAN 2018**
Place: **Mumbai**


Chief Executive Officer
Slum Rehabilitation Authority

No.: SRA/CEO/CLC/Hearing/ 01 /2018
Date: **18 JAN 2018**

Copy to:

1. Panchvati Sahkari Griha Nirman Sanstha
Jaihind Nagar, Khar (East), CTS No. 373
& 375 of Village Bandra (E),
Mumbai- 400051.
2. M/s. Mighty Engineers, Developers & Contractors,
163, Dwarkabhai Tower, Bhagat Lane,
Mahim, Mumbai - 400 016
3. M/s Shivalik Ventures Pvt. Ltd.
1, Ground Floor, J.V. House,
D.S. Babrekar Road, Dadar (West),
Mumbai - 400 028.



4. Dy. Collector (City)/SRA.
5. Dy. Chief Engineer H-East Ward/SRA.
6. Executive Engineer (W.S.) H-East Ward/SRA.
7. Financial Controller/SRA
8. Asst. Registrar C.S. (Eastern & Western Suburbs)/SRA
9. Information Technology Officer/SRA.
10. Chief Legal Consultant/SRA.



