



SLUM REHABILITATION AUTHORITY

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

No.SRA/ENG/1559/FN/ML/LOI

SRA/CO/OW/2021/43665

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. Shree Developers
003/45, Samadhan Building,
Gandhi Nagar, Bandra (East),
Mumbai - 400051
2. M/s. Tandel & Associates
Shri. Sandip W. Tandel
12, Zaobawadi, Thakurdwar,
Mumbai - 400002
3. Chairman/Secretary
Vignahartha SRA CHS Ltd.
Dadar Naigaon Division, Katrak Road,
Wadala (West), Mumbai - 400031
4. Smt. Ushadevi Vinod Kalwar
Shri. Kiran Gada and Ors.
Plot No.330, G.K Pawaskar Chawl,
Katrak Road, Wadala (West)
Mumbai - 400031

... Respondents

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

ORDER

Passed on - 15/11/2021)

These Suo-Moto proceedings are initiated in respect of Slum Rehabilitation Scheme on land CS No.625 (pt.), 627 (pt.), 628 and 629

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CEO | SRA

(pt.) of Dadar Naigaon Division, Plot. 330 and 331 (pt.) for "Vighnaharta SRA CHS Ltd." pursuant to the note of Joint Registrar (Eastern & Western Suburb)/SRA dated 27.01.2021. Hereinafter the abovesaid Slum Rehabilitation Scheme is referred to and called as "subject SR Scheme". The Respondent No.1 is Developer of subject SR Scheme. The Respondent No. 2 is the Architect of subject SR Scheme. The Respondent No.3 is society of slum dwellers and Respondent No.4 are group of slum dwellers of Respondent No. 3 Society.

BRIEF FACTS

The slum dwellers residing on plot of land bearing C.S. No. 625 (pt), 627 (pt), 628 and 629 (pt) of Dadar Naigaon Division, Plot No. 330 and 331 (pt) have formed "Vignaharta SRA CHS Ltd." and resolved to redevelop the said land by implementing the Slum Rehabilitation Scheme. The Respondent No.3 Vighnaharta SRA Ltd., society appointed Respondent No.1 as Developer for redevelopment of subject SR Scheme. Pursuant to the appointment, the Respondent No.1 submitted proposal of subject SR Scheme to Slum Rehabilitation Authority on land admeasuring 832.43 sq. mtrs. The said land is owned by MCGM. The proposal of subject SR Scheme is duly accepted on 21.08.2006. Annexure-II is issued by Assistant Commissioner F/N Ward, MCGM on 01.12.2007 for total 37 slum dwellers, out of which 26 were declared as eligible. Letter of Intent was issued on 27.08.2010 and the same is lastly revised on 31.03.2021. Intimation of Approval for composite building was issued on 13.06.2013 and the same was amended on 30.04.2021. Plinth Commencement Certificate was issued on 13.10.2015. Further Commencement Certificate was issued on 13.07.2021.

Due to nonpayment of rent, the Respondent No.4 has submitted various complaints to this Authority. Pursuant to the said complaints hearing was held before Joint Register (Eastern & Western Suburbs)/SRA. In spite of directions given by the Joint Registrar/SRA to the developer to pay the arrears of rent, the developer failed to pay the same. Therefore, the Joint Register through note dated 27.01.2021 proposed to initiate action u/s 13 (2) of the Maharashtra Slum Areas (I, C & R), Act 1971

against the Respondents. The said note is approved by the Hon'ble Chief Executive Officer/ SRA and accordingly the notices are issued to the concern parties.

HEARING

The matter is heard on 01.03.2021. On said day Shri. Pandharinath Thakur remain present for Respondent No.1. Shri. Krishnakant Mhatre, Secretary remain present for Respondent No.3 along with Advocate Vikas Gupta. Parties were heard at length and matter is closed for order. The direction is given to Respondent No.1 to pay rent within a period of 8 days.

ARGUMENT OF RESPONDENT NO.4 (SLUM DWELLERS)

It is the version of Respondent No.4 that inspite of the directions of the Joint Registrar (Eastern & Western Suburbs)/SRA, the Respondent No.1 failed to pay rent to them. Further the Respondent No.4 in letter dated 16.10.2019 alleged that since the year 2015 the Respondent No.1 did not commenced any work of redevelopment but from 20 to 25 days the developer has started construction at site without paying rent to the slum dwellers.

It is the further version of Respondent No.4 that the office bearers of Respondent No.3 with hand in gloves with Respondent No.1 vacated the entire plot of land under the subject SR Scheme. The office bearers of Respondent No.3 society are supporting the Respondent No.1 Developer and therefore they are not getting any assistance from Respondent No.1. The Respondent No.4 alleged that the Respondent No.1 is in arrears of Rs. 1,27,95,125/- towards the property tax and MCGM is in processes of attaching the said property.

According to Respondent No.4, the Respondent No.1 is not in sound financial position and it is necessary to terminate his appointment as a Developer of the subject SR Scheme. The Respondent No.4 prayed to direct the Respondent No.1 to stop the construction of the subject SR Scheme till the payment of rent to the slum dwellers. Further the Respondent No.4 prayed to dissolve the Managing Committee of

Respondent No.3 society and appoint Administrator in Respondent No.3 society.

ARGUMENT OF RESPONDENT NO.1 (DEVELOPER)

According to Respondent No.1, the Respondent No.4 is a group of non cooperative and disgruntled slum dwellers. They have got declared themselves eligible on the basis of false documents and he has challenged their eligibility by way of Appeal before Additional Collector, Mumbai City and Appeals are pending. In fact the Slum Rehabilitation Authority should take necessary action against these slum dwellers for forgery and fabrication of documents. The Slum Rehabilitation Authority while issuing direction for payment of rent to these non cooperative slum dwellers has failed to appreciate the true intent of section 33/38 of Maharashtra Slum Areas (I, C & R) Act, 1971. It is further version of Respondent No.1 that they have filed Writ Petitions against 12 non cooperative slum dwellers in Hon'ble High Court and same are pending. On these grounds the Respondent No.1 has prayed to drop the proceedings.

ISSUES

From the facts and circumstances 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 subject SR Scheme.

REASONS

It is admitted fact that the period of around 15 years has passed since the acceptance of proposal and till date the Respondent No.1 has failed to rehabilitate the eligible slum dwellers. The record reveals that the 12 slum dwellers in subject SR Scheme made several complaints to Slum Rehabilitation Authority regarding nonpayment of rent by Respondent No.1. The note of Assistant Registrar reveals that the matter was heard by him and the directions were given to Respondent No.1 to deposit the rent within 15 days in Bank Account of respective slum dwellers. However, inspite of direction the Respondent No.1 has failed to pay the rent.



In respect of nonpayment of rent, the Respondent No.1 has alleged that these 12 slum dwellers are non cooperative and they have got declared themselves eligible on the basis of false documents. It is further version of Respondent No.1 that they have challenged the eligibility of these 12 slum dwellers before Additional Collector by way of Appeal and same is pending. Apart from Appeal they have also filed Writ Petitions against these slum dwellers in Hon'ble High Court and same are pending. It is pertinent to note that at present these 12 slum dwellers are eligible and same is not disputed by Respondent No.1. When these slum dwellers are eligible then obviously the Respondent No.1 is under obligation to pay the transit rent to these slum dwellers.

As stated herein above the requisite permissions are issued to Respondent No.1 but the progress in construction at site is extremely slow. The developers implementing the Slum Rehabilitation Schemes are expected to complete the scheme within reasonable time. In present case the considerable period of around 15 years has passed. Obviously, there is inordinate delay and non performance on the part of Respondent No.1. The representation of Respondent No.1 on record nowhere reveals any justifiable ground for alleged delay.

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 & Anr. are applicable to present case. The relevant observations in said order are reproduced as it is;

"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."

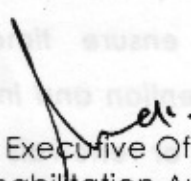
In the light of these facts and circumstances this Authority has come to a conclusion that the Respondent No.1 has failed to pay rent as well as to complete subject SR Scheme within reasonable period. There is nonperformance and inordinate delay on the part of Respondent No.1. It will be just and proper to terminate the Respondent No.1 as Developer of subject SR Scheme. Accordingly this Authority proceed to pass following order.

ORDER

1. The Respondent No.1 i.e. M/s. Shree Developers is hereby terminated as developer of subject SR Scheme i.e. SR Scheme on land CS No.625 (pt.), 627 (pt.), 628 and 629 (pt.) of Dadar Naigaon Division, Plot. 330 and 331 (pt.) for "Vignaharta SRA CHS Ltd."
2. The Respondent No.3 society i.e. Vignaharta SRA CHS Ltd. is at liberty to appoint new developer of its choice as per rules, regulations and policy of Slum Rehabilitation Authority.
3. The Executive Engineer is directed to appoint Government Approved Valuer to determine the actual expenses incurred by Respondent No.1 in respect of subject SR Scheme till date.
4. The newly appointed developer to reimburse the amount determined by Government Approved Valuer to Respondent No.1.

Place: - Mumbai

Date: - 15/11/2021


Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO Order/13(2)/Vignaharta SRA CHS Ltd./ 12021 / 43665
Date: 16/11/2021

Copy to:

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Mumbai - 400051
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5. Dy. Chief Engineer/SRA
6. Executive Engineer (F/N Ward)/SRA
7. Dy. Collector (City)/SRA
8. Financial Controller/SRA
9. Assistant Registrar (City)/SRA
10. Information Technology Officer/SRA
11. Chief Legal Consultant/SRA

