



SLUM REHABILITATION AUTHORITY

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

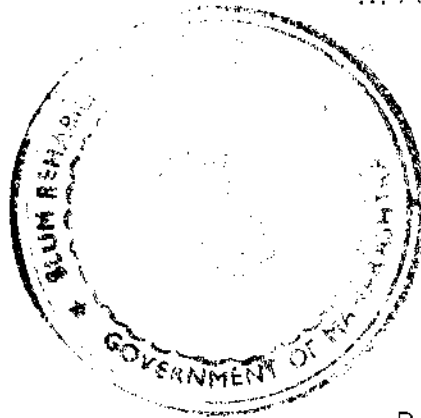
File No.SRA/ENG/2641/FN/STGL/LOI

(1) Barkat Ali Anjuman CHS (Prop.)
(2) New Barkat Ali Nagar CHS (Prop.)
(3) Gautam Nagar CHS (Prop.)
Salt Pan Road, Wadala (East),
Mumbai – 400 037

... Applicants

V/s

1. M/s. A.M. Constructions
80-A, Kismat Nagar, C.S.T. Road,
Kurla (West), Mumbai – 400 070
2. M/s. Consultants Combined
B/101, Manek Kunj, Dr. S.S. Rao Road,
Meghwadi, Lalbaug,
Mumbai – 400 012



... Respondents

ORDER

(Passed on - 24.04.2024)

The present proceedings are initiated pursuant to application of Applicants dated 27.02.2024 in respect of Slum Rehabilitation Scheme on land C.S. No.194(pt), 195(pt), 199(pt), 203(pt), 204(pt), 206(pt), 208(pt), 209(pt), 192(pt), 201(pt), 202(pt) and 1/208(pt) of Salt Pan Division for "Barkat Ali Anjuman CHS (Prop.), New Barkat Ali Nagar CHS (Prop.) and Gautam Nagar CHS (Prop.)". Hereinafter the abovesaid 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:

The slum dwellers residing on plot of land bearing C.S. No.194(pt), 195(pt), 199(pt), 203(pt), 204(pt), 206(pt), 208(pt), 209(pt), 192(pt), 201(pt), 202(pt) and 1/208(pt) of Salt Pan Division have formed Barkat Ali Anjuman CHS (Prop.), New Barkat Ali Nagar CHS (Prop.) and Gautam Nagar CHS

(Prop.) and resolved to redevelop the land in their occupation by implementing the Slum Rehabilitation Scheme. Accordingly Applicants passed resolution and appointed Respondent No.1 as Developer and Respondent No.2 as Architect for redevelopment. Pursuant to their appointment, the Respondent No.1 submitted proposal of subject SR Scheme to Slum Rehabilitation Authority and it was duly accepted on 27.01.2012. The land under the subject SR Scheme is owned by Government of Maharashtra (UD PHD). The certified Annexure-II is issued by Competent Authority on 15.06.2013 for total 191 number of slum dwellers, out of which 50 slum dwellers were held eligible. Thereafter, no further permission is issued to subject SR Scheme and the scheme is stand still.

Due to inordinate delay in implementation of subject SR Scheme, the Applicants submitted applications dated 27.02.2024 for termination of Respondent No.1 as Developer. Pursuant to said application a note dated 28.02.2024 was submitted by Executive Engineer (F/N Ward)/SRA for initiating action u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971 and accordingly notices were issued to the concern parties and the matter was heard on 19.03.2024. On said day representatives of Applicant Societies remain present alongwith Advocate Surana. Mr. Mohammed Khalid Khan remain present for Respondent No.1 developer. Heard both the parties and matter was closed for order. Directions were given to parties to submit their written submission on record. In spite of the direction Respondent No.1 failed to submit written submission on record.

CASE OF APPLICANT SOCIETIES

There are copies of letters dated 23.02.2024 of Applicants on record. The sum and substance of the said letters are almost identical. According to Applicants the proposal of subject SR Scheme is delayed for more than 13 years from the date of acceptance. There is total nonperformance on the part of Respondent No.1 and therefore through General Body Resolutions dated 16.02.2024, they terminated the appointment of Respondent No.1 as developer of subject SR Scheme. On these grounds the Applicants prayed to terminate the appointment of Respondent No.1 as 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 subject SR Scheme.

REASONS

It is admitted fact that the proposal of subject SR Scheme is accepted by this Authority on 27.01.2012 and certified Annexure-II is issued on 15.06.2013 declaring 50 slum dwellers eligible out of total 191. After issuance of Annexure- II, there is no further permission issued to subject SR Scheme and the scheme is stand still. There are letters of Applicant Societies dated 23.03.2024 on record. From said letters it appears that for last more than 13 years, the Respondent No.1 has failed to show any progress in the subject SR Scheme. Therefore, the Applicant societies through General Body Resolution dated 16.02.2024 terminated the appointment of Respondent No.1 as developer. Though the Respondent No.1 remain present during the hearing, they have failed to file written submission on record. This approach of Respondent No.1 shows that they are not interested in implementing the subject SR Scheme.

There is absolutely no progress in subject SR Scheme till date. During the said period the Respondent No.1 has not rehabilitated a single slum dweller. Obviously, there is delay. According to Applicant societies the delay is on the part of Respondent No.1. Such inordinate delay in rehabilitation of slum dwellers is bound to frustrate the basic object of Government in introducing the Slum Rehabilitation Schemes. In this regard the observation of Hon'ble High Court in Writ Petition No.2987 of 2018, M/s. Galaxy Enterprises V/s. State of Maharashtra & Ors. are relevant. The relevant observation of Hon'ble High Court are as under;

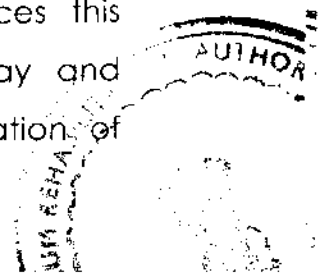
"58. In any case the developer cannot be said to possess a vested right which would mandate the SRA to continue it's appointment for such delay and when the body appointing the said developer namely the society self, in the given set of facts, bonafide and for an acceptable reasons, lacks confidence in the Petitioner as appointed by it. Between the slum society and

the developer, it is merely contractual dispute. It cannot be said that the society in adverse circumstances would have no authority in a resolution so passed by the majority to remove a developer. The role of the SRA under law is to further the interest of the slum scheme by exercise of it's powers in the best interest of the slum redevelopment and pass such appropriate orders to achieve the said object, in exercising it's powers inter alia under section 13(2) of the Slums Act."

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 & 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."

On careful consideration of above facts and circumstances this Authority has come to conclusion that there is inordinate delay and nonperformance on the part of Respondent No.1 in implementation of



subject SR Scheme and they are liable to be terminated as Developer. Accordingly following order is passed.

ORDER

1. The Respondent No.1 i.e. M/s. A.M. Constructions is hereby terminated as developer of subject SR Scheme i.e. SR Scheme on land C.S. No.194(pt), 195(pt), 199(pt), 203(pt), 204(pt), 206(pt), 208(pt), 209(pt), 192(pt), 201(pt), 202(pt) and 1/208(pt) of Salt Pan Division for "Barkat Ali Anjuman CHS (Prop), New Barkat Ali agar CHS (Prop) and Gautam Nagar CHS (Prop)".
2. The Applicant societies i.e. Barkat Ali Anjuman CHS (Prop) & 2 Ors. are at liberty to appoint new developer of their choice in accordance with rules, regulations and policy of Slum Rehabilitation Authority.
3. The newly appointed developer to reimburse the actual expenses incurred by Respondent No.1 in respect of subject SR Scheme till date as per provisions of section 13(3) of the Maharashtra Slum Areas (I,C & R) Act, 1971.
4. The newly appointed developer to comply with the circular no.210 of Slum rehabilitation Authority.

Place:- Mumbai

Date:- 24 APR 2024


Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO Order/Barkat Ali Anjuman CHS(Prop) & 2 Ors./ 35/2024

Date:

Copy to:

1 Barkat Ali Anjuman CHS (Prop)
New Barkat Ali Nagar CHS (Prop)
Gautam Nagar CHS (Prop)
Salt Pan Road, Wadala (East),
Mumbai- 400037.

2. M/s. A.M. Constructions
Salt Pan Road, Wadala (East),
Mumbai- 400037.



3. M/s. Consultants Combined
B/101, Manek Kunj, Dr. S.S. Rao Road,
Meghwadi, Lalbaug,
Mumbai- 400012.
4. Dy. Chief Engineer/SRA
5. Executive Engineer (F/N Ward)/SRA
6. Deputy Collector (Spl. Cell)/SRA
7. Financial Controller/SRA
8. Assistant Registrar (City)/SRA
- ✓ 9. Information Technology Officer/SRA
10. Chief Legal Consultant/SRA

