



SLUM REHABILITATION AUTHORITY

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

File No. SRA/ENG/1734/RC/PL/LOI

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. Amber Enterprises
Room No.7, Tare Compound,
Opp: Danisar Check Post, Danisar (East)
Mumbai - 400 068
2. M/s. Space Design Consultant
C-104, Gaurava Sitare Building,
Behind Bhatia High School,
Saiyaba Nagar, Borivali (West)
Mumbai - 400 067
3. Shiv Hari Kripa SRA CHS (Prop.)
Village Kanheri, Kasturba,
Road No.8, Borivali (East),
Mumbai - 400 066



... Respondents

**Sub:- Suo Moto proceedings u/s 13 (2) of the Maharashtra Slum Areas (I,
C & R), Act, 1971.**

ORDER

(Passed on - 11 0 APR 2024)

These Suo Moto proceedings are initiated in respect of Slum
Rental Allocation Scheme on land CTS No.51, 51/1 to 21, 52, 52/1 to 13, 53,
53/1 to 12, 54, 54/1 to 30, 59, 59/21, 60, 60/1 to 40, 61, 61/1 to 23 of
Village Kanheri, Kasturba, Road No.8, Borivali (East) for "Shiv Hari Kripa
SRA CHS (Prop.)" pursuant to note of Executive Engineer R/C Ward/SRA
dated 01.03.2023. Hereinafter the above said Slum Rehabilitation


CEO/SRA

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 CTS No.51, 51/1 to 21, 52, 52/1 to 13, 53, 53/1 to 12, 54, 54/1 to 30, 59, 59/2, 60, 60/1 to 40, 61, 61/1 to 23 of Village Kanheri, Kasturba, Road No.8, Borivali (East) formed Respondent No.3 society i.e. "Shiv Hari Kripa SRA CHS (Propy) and in General Body Meeting resolved to redevelop the said land by implementing the Slum Rehabilitation Scheme. The Respondent No.3 society appointed Respondent No.1 as Developer and Respondent No.2 as Architect for implementation of subject SR Scheme. The proposal of subject SR Scheme was submitted to Slum Rehabilitation Authority on and measuring 4678.6 sq. mtrs. The said land is owned by the private person. The proposal of subject SR Scheme is duly accepted by Slum Rehabilitation Authority on 29.01.2007. Annexure-II is issued by Competent Authority on 03.02.2009 for total 277 slum dwellers, out of which 161 slum dwellers were declared as eligible. However thereafter there is absolutely no progress in subject SR Scheme and the same stand still.

Due to inordinate delay in implementation of the subject SR Scheme, the Respondent No.3 has earlier submitted application dated 12.11.2019 for termination of Respondent No.3 as Developer. Pursuant thereto the Deputy Collector/SRA has submitted a note dated 26.12.2019. The said note was approved and accordingly notice for hearing were issued to the concerned parties. The matter was heard on 10.12.2021. On said day parties were heard and matter closed for final.

In the meanwhile, the Slum Rehabilitation Authority has received 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.451. Since the proposal was already recorded through Public Notice dated 20.04.2022 hence the proceedings were disposed of on 08.12.2022.

CEO / SRA



The report of engineering department dated 17.03.2023 is on record. From said report it appears that as per Guidelines dated 28.04.2022 issued by this Authority, the Respondent No.3 has appointed M/s. Hariko Properties LLP as their new developer. The report further mentions that the M/s. Hariko Properties LLP has also obtained all the requisite NOC's from various departments of SRA and also deposited three years advance rent with Finance Controller/SRA in accordance with circular no.210. The proposal of M/s. Hariko Properties LLP is approved by the Slum Rehabilitation Authority on 05.01.2023 and accordingly the Letter of Intent and Intimation of Approval is issued.

In the meanwhile, 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. While quashing the Public Notice dated 20.04.2022, the Hon'ble High Court in paragraph no.13 of the order made following observations:

"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".

Due to said order, the notices for hearing were issued to the concerned parties. Accordingly hearing was held on 29.03.2023. On said day, Gulam Rasul, Mohammed Ali Shaikh and Rafiq Shekani remain present for Respondent No.1. None remain present for Respondent No.3 Society. The Respondent No.1 was heard at length and matter was closed for order. The Respondent No.1 failed to submit written submission on record.

CASE OF RESPONDENT NO.3 SOCIETY

According to Respondent No.3 they appointed Respondent No.1 as developer by passing General Body Resolution in the year 2007. Pursuant to the appointment the Respondent No.1 submitted proposal to Slum Rehabilitation Authority and same was accepted on 29.01.2007. The Annexure-II is issued by Competent Authority on 03.02.2009 for total



277 slum dwellers, out of which 161 slum dwellers were declared as eligible. It is alleged by the Respondent No.3 that even after obtaining Annexure-II in the year 2009, the Respondent No.1 failed to show any progress in the subject SR Scheme. According to them for last 12 years Respondent No.1 has done nothing except introducing new partners and changing the name of firms from M/s Amber Enterprises to Classic Construction.

It is further version of Respondent No.3 that the Respondent No.1 is not in financially sound position to complete the subject SR Scheme. According to them Respondent No.1 is interested in trading the subject SR Scheme. On these grounds Respondent No.3 has prayed to terminate Respondent No.1 as developer of subject SR Scheme

ISSUES

From facts on record the issue that arise for determination of this Authority is as to whether there is nonperformance on the part of Respondents and delay caused in implementation of subject SR Scheme is attributable to Respondent No.1.

REASONS

It is admitted fact that the proposal of subject SR Scheme is accepted by Slum Rehabilitation Authority on 29.01.2007 and Annexure-II is obtained in the year 2009. The record reveals that initially the Respondent No.3 society has appointed Respondent No.1 as developer. However due to failure of Respondent No.1 to rehabilitate the slum dwellers, the 13(2) proceedings were initiated against Respondent No.1 and hearing was in progress. But subject SR Scheme was included in list of 517 stalled Schemes and proposal was recorded. Further record reveals that after recording of the Scheme on 05.08.2022 the Respondent No.3 society in General Body Meeting appointed M/s. Hariko Properties LLP as new developer. Pursuant to appointment, M/s. Hariko Properties LLP submitted fresh proposal and same is accepted on 10.01.2023. Due to recording of Scheme in list of 517 stalled Schemes the proceedings u/s 13(2) were closed.


CEO / SRA



record. From said report it appears that M/s. Hariko Properties LLP has also obtained all the requisite NOC's from various departments of SRA and also deposited three years advance rent with Finance Controller/SRA. On same day i.e. 30.01.2023 on which the proposal of new developer is accepted, the Hon'ble High Court passed order in Writ Petition (L) No.14017 of 2022 and quashed the Public Notice recording 517 Schemes. Due to quashing of Public Notice, the notices were again issued and parties are heard. During the pendency of proceedings, the land owners Gulam Rasul Mohammed Ali Shaikh, Rafiq Shekani & Ors. have granted development rights of said land to M/s. Hariko Properties LLP. The record further reveals that the Letter of Intent and Intimation of Approval is issued to new developer on 09.11.2023 & 08.12.2023 respectively. It is pertinent to note that on behalf of Respondent No.1 Gulam Rasul Mohammed Ali Shaikh and Rafiq Shekani were present for hearing, but there is no written submission made by Respondent No.1.

It is further version of Respondent No.3 that for last more than 14 years, the Respondent No.1 has failed to show any progress in the subject SR Scheme. The remarks of Deputy Director of Land Records/SRA as well as LOI report reveals that the land owners who were also the owners of Amber firm have transferred the development rights through registered Agreement dated 16.06.2022. The said conduct of Respondent No.1 indicates that they are not interested in implementing the subject SR Scheme.

There is absolutely no progress in subject SR Scheme till date. Obviously, there is delay. According to Respondent No.3 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. 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



CEO / SRA



Order No.1019 of 2010, Ravi Ashish Land Developers Ltd. V/s. Prakash Pandurang Kamble & Anr. are relevant. The relevant observations 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. Amber Enterprises is hereby terminated as developer of subject SR Scheme i.e. SR Scheme on land CTS No. 51, 51/1 to 21, 52, 52/1 to 13, 53, 53/1 to 12, 54, 54/1 to 30, 59, 59/21, 60, 60/1 to 40, 61, 61/1 to 23 of Village Kanheri, Kasturba, Road No.8, Borivali (E) for "Shiv Hari Kripa SRA Scheme (Prop.)".
2. The new incoming developer to reimburse the actual expenses incurred by Respondent No.1 as per provisions of section 13(3) of Maharashtra Slum Areas (I, C & R) Act, 1971.
3. Since the newly appointed developer has already submitted proposal and Letter of Intent, Intimation of Approval is issued, there is no need to pass any order in that regard.



CEO / SRA

4. The newly appointed developer has also deposited the rent of slum dwellers as per circular no.210. So directions in this regard are also not needed.

Place: - Mumbai

Date: -

17 0 APR 2024


Chief Executive Officer
Slum Rehabilitation Authority

Re: SRA/CEO/13(2)/Shiv Hari Kripa SRA CHS (Prop.)/29 / 2024

Date: -

17 0 APR 2024

1. M/s. Amber Enterprises
Room No.7, Tare Compound,
Opp: Danisar Check Post, Dahisar (East)
Mumbai - 400 068
2. M/s. Space Design Consultant
C-104, Gaurava Sitare Building,
Behind Bhatia High School,
Sai Baba Nagar, Borivali (West)
Mumbai - 400 067
3. Shiv Hari Kripa SRA CHS (Prop.)
Village Kanheri, Kasturba,
Road No.8, Borivali (East),
Mumbai - 400 0664.
4. Dy. Chief Engineer/SRA
5. Executive Engineer (R/C Ward)/SRA
6. Deputy Collector (Spl. Cell)/SRA
7. Assistant Registrar (W.S.)/SRA
8. CLC/SRA
9. IT Officer/SRA

