

SLUM REHABILITATION AUTHORITY

**BEFORE THE CHIEF EXECUTIVE OFFICER,
SLUM REHABILITATION AUTHORITY
Dy. CE/SI/SRD/097/T**

1. Shree Ram Nagar Rahiwasi Sangh
Purshotam Kheraj Marg,
Mulund (West), Mumbai- 400 080
2. Vishnu Tower SRA CHS Ltd.
Bhakti Dham Complex,
P.K. Road, Mulund (West),
Mumbai- 400 080
3. Omkar CHS (Prop.)
Keshavpada, P.K. Road,
Mulund (West),
Mumbai- 400 080
4. Jai Maharashtra CHS (Prop.)
Keshabpada, Purshotam Kheraj Road,
Mulund (West), Mumbai- 400 080



... Applicants

V/s

1. M/s. Annapi Construction
Plot No.9, Shree Krishna Niwas,
2nd Floor, Ganesh Gawade Cross Road,
Opp: Pragati Hospital, Mulund (West),
Mumbai- 400 080
2. M/s. Jatin Shah
401, Hareesh Niwas, Old Nagardas Road,
Andheri (West), Mumbai- 400 069

... Respondents

ORDER

(Passed on - 21/10/23)

The present proceedings are initiated pursuant to applications of Applicants dated 16.08.2023, 17.08.2023 and 18.08.2023 in respect of Slum Rehabilitation Scheme on land CTS No. 565(pt), 568(pt) of Village Nahur,

Mulund (West) for "Shree Ram Nagar Rahiwashi Sangh". 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 CTS No. 565(pt), 568(pt) of Village Nahur, Mulund (West), Mumbai have formed Shree Ram Nagar Rahiwasi Sangh and resolved to redevelop the land in their occupation by implementing the Slum Rehabilitation Scheme. Accordingly Applicant No.1 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 and it was duly accepted on 01.03.1995. The land under the subject SR Scheme is admeasuring 9185.20 sq. mtrs. owned by private person. Letter of Intent was issued on 26.12.2013. Intimation of Approval to rehab building no.1 was issued on 08.01.2001. Plinth Commencement Certificate to rehab building no.1 is yet not approved. Intimation of Approval to rehab building no.2 was issued on 24.01.1996 and further Commencement Certificate to rehab building no.2 was issued on 24.09.2009. Intimation of Approval to rehab building no.3 was issued on 30.09.1996 and further Commencement Certificate to rehab building no.3 was issued on 31.03.1997. Intimation of approval to rehab building no.4 was issued on 22.03.1999 and further Commencement Certificate to rehab building no. 4 was issued on 16.08.1999. Intimation of Approval to rehab building no.5, 6, and 8 is yet not approved. Intimation of Approval to rehab building no.7 was issued on 24.03.2000. 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 an applications dated 16.08.2023, 17.08.2023 and



18.08.2023 for termination of Respondent No.1 as Developer. Pursuant to said applications a note dated 24.08.2023 was submitted by Executive Engineer-3/SRA for initiating action u/s 13(2) of Maharashtra Slum Areas (I, C & R) Act, 1971 and accordingly notices were issued to the concern parties and the matter was heard on 21.09.2023. On said day Advocate Rishikesh G. Bhagat appeared on behalf of Applicant No.1, 3 and 4 societies. Adv. Dedhia appeared on behalf of Applicant No.2 society. Adv. Samiksha Kamble appeared for Respondent No.1 developer. Adv. Prerav Sharma appeared suo-moto on behalf of Maverick Realty. Heard all the parties and matter was closed for order. Though the Advocate for Respondent No.1 remained present for hearing, they failed to submit written submission on record.

ARGUMENT OF APPLICANTS

According to Applicants, the Respondent No.1 has submitted proposal to Slum Rehabilitation Authority in the year 1995. It is further version of Applicants that since last 20 years the subject SR Scheme is stand still due to inaction on the part of Respondent No.1. According to Applicants some of the members for want of transit accommodation occupied rehab tenements without Occupation Certificate which are in extremely dilapidated condition. It is further version of Applicants that remaining members are not provided with permanent alternate accommodation as per rules of Slum Rehabilitation Authority. The Respondent No.1 has also committed serious offence under MRTP Act by constructing sale components and illegally selling to the innocent flat purchasers due to which Applicants society has lost trust in Respondent No.1.

According to Applicants, the Applicant No.1, 3 and 4 through General Body Meetings dated 26.01.2020, 07.03.2021 and 17.01.2021 respectively passed resolution for termination of appointment of Respondent No.1 as developer and appointed of M/s. Maverick Realty as new developer for implementation of subject SR scheme. Thereafter, these Applicants through

Though the Advocate for Respondent No.1 remained present during the hearing held on 21.09.2023, they failed to submit written submission on record. This approach of Respondent No.1 clearly indicates that they do not want to proceed with the subject SR Scheme.

The Applicants have produced copies of Deed of Cancellation dated 31.03.2022 on record. As per said Deeds the societies and the Respondent No.1 mutually agreed to cancel and terminate the documents including Development Agreement entered by and between them.

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 society 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;

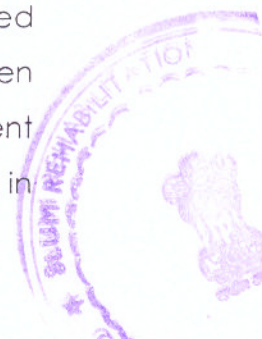
"58. In any case the developer cannot be said to possess a vested right which would mandate the SRA to continue it's appointment for such delay and when the body appointing the said developer namely the society itself, in the given set of facts, bonafide and for an acceptable reasons, lacks confidence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

This Authority is having powers to take action in case of inordinate delay. The Applicant society by its General Body Meetings resolved to terminate the appointment of Respondent No.1 since there is no progress in subject SR Scheme. It is pertinent to note that the Applicants also submitted copies of Deed of Cancellation dated 31.03.2022 entered between Applicants and Respondent No.1. According to Applicants, the Respondent No.1 has relinquished their rights, title and interest in respect of said land in favour of societies.



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. Annapi Construction is hereby terminated as developer of subject SR Scheme i.e. SR Scheme on land CTS No. 565(pt), 568(pt) of Village Nahur, Mulund (West) for "Shree Ram Nagar Rahiwashi Sangh".
2. The Applicant society i.e. Shree Ram Nagar Rahiwashi Sangh is at liberty to appoint new developer 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(2) of Maharashtra Slum Areas(I,C & R) Act, 1971.

Place:- Mumbai

Date:-

04 OCT 2023


Chief Executive Officer
Slum Rehabilitation Authority

No.SRA/CEO Order/Shree Ram Nagar CHS (Prop.)/61/2023

Date: 04 OCT 2023

Copy to:

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6. M/s. Jatin Shah
401, Haresh Biwas, Old Nardas Road,
Andheri (West), Mumbai - 400 0694.
7. Dy. Chief Engineer/SRA
8. Executive Engineer (T Ward)/SRA
9. Tahasildar-2/SRA
10. Financial Controller/SRA
11. Joint Registrar (W.S.)/SRA
- ✓ 12. Information Technology Officer/SRA
13. Chief Legal Consultant/SRA

