

SLUM REHABILITATION AUTHORITY

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

File No. SRA/ENG/1470/PS/ML/LOI

Hanuman Nagar SRA CHS &
Azad Nagar SRA CHS
CTS No.532/A(pt), Village - Pahadi Goregaon,
Taluka - Borivali, Walbhat Road,
Cama Industrial Estate,
Goregaon (East), Mumbai - 400 063

V/s

... Applicant

1. D.V. Infrahomes Pvt. Ltd.
8, Abhishek Premises CHS Ltd.
Off Link Road, C-5, Dalia Industrial Estate,
Andheri (West), Mumbai - 400 053
2. M/s. Arch View Associates
Flat No.46/2249, Suprabhat CHS,
Gandhi Nagar, Bandra (East),
Mumbai - 400 051



... Respondents

ORDER

(Passed on - 26/10/23)

The present proceedings are initiated pursuant to application of Applicant dated 31.05.2023 in respect of Slum Rehabilitation Scheme on land CTS No.532A(pt) of Village Pahadi Goregaon situated at Cama Industrial Estate, Walbhat Road, Goregaon (East), Mumbai - 400 063 for Hanuman Nagar SRA CHS & Azad Nagar SRA CHS on account of inordinate delay and non-performance on the part of Respondent No.1 developer. 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;

1

CEO / SRA

BRIEF FACTS:

The slum dwellers residing on plot of land bearing CTS No.532A(pt) of Village Pahadi Goregaon situated at Cama Industrial Estate, Walbhat Road, Goregaon (East), Mumbai – 400 063 have formed "Hanuman Nagar SRA CHS & Azad Nagar SRA CHS" and resolved to redevelop the land in their occupation by implementing the Slum Rehabilitation Scheme. Accordingly Applicant 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 26.06.2006. The land under the subject SR Scheme is admeasuring 4192.302 sq. mtrs. owned by MCGM. The Competent Authority has issued certified Annexure-II on 26.04.2010. There are total 286 slum dwellers, out of which 257 slum dwellers are declared as eligible by Competent Authority. The Letter of Intent & Intimation of Approval for rehab building were issued on 31.05.2016 & 18.07.2016 respectively and same were lapsed and cancelled. Thereafter the Letter of Intent was issued on 17.12.2021 as per Development Control & Promotion Regulation, 2034. The Slum Rehabilitation Authority has also issued Intimation of Approval and Plinth Commencement Certificate to composite building on 01.02.2022 & 22.12.2022 respectively. Thereafter, no further permission is issued to subject SR Scheme and the scheme is stand still. There is Stop Work notice dated 20.12.2022 issued to Respondent No.1 for sale component in subject SR Scheme due to nonpayment of transit rent.

The Applicant society submitted an Application dated 31.05.2023 for termination of Respondent No.1 as developer alleging that developer has failed to pay the transit rent to eligible slum dwellers. Pursuant to the said Application the Tahsildar-2/SRA has submitted a note dated 03.07.2023 proposing to issue show cause notice to developer u/s 13(2) of the Maharashtra Slum Areas (I, C & R) Act, 1971. Accordingly notice for hearing was issued and the matter was heard on 17.08.2023 & 26.09.2023. On 26.09.2023, Adv. Ankit Dubey appeared on behalf of Applicant society.



Advocate Himanshu Agarwal & Advocate Chirag Balsara also appeared on behalf of Respondent No.1 (Bansal Group & Provident Housing Ltd. respectively). Parties were heard at length and matter was closed for order. Directions were given to parties to submit their written submissions within seven days.

ARGUMENT OF APPLICANT SOCIETY

According to Applicant, the slum dwellers have formed Hanuman Nagar SRA CHS & Azad Nagar SRA CHS and have appointed Respondent No.1 as their developer for implementation of subject SR Scheme by executing Development Agreement and Power of Attorney dated 16.02.2006. The Respondent No.1 submitted proposal to Slum Rehabilitation Authority and same is duly accepted on 26.06.2006. The Letter of Intent & Intimation of Approval for rehab building were issued on 31.05.2016 & 18.07.2016 respectively. It is further version of Applicant that, through General Body Resolution dated 06.11.2016 they have confirmed the change of name of developer from M/s. D.V. Builders & Developers to M/s. D.V. Infrahomes Pvt. Ltd. In the year 2022 the Applicant executed fresh Development Agreement and Power of Attorney in favour of Respondent No.1.

It is further version of Applicant that, the Letter of Intent was issued on 17.12.2021 as per Development Control & Promotion Regulation, 2034. After obtaining necessary permissions, the entire plot was vacated in March, 2022 and Respondent No.1 agreed to pay transit rent amounting to Rs.12,000/- p.m. to slum dwellers. According to Applicant the Respondent No.1 has paid the transit rent for the first year commencing from November-December, 2021 till November-December, 2022. The Plinth Commencement Certificate to the composite building was issued on 22.12.2022. In spite of vacating the said plot, the Respondent No.1 failed to start construction work despite various oral assurances. The Respondent No.1 is in arrears of transit rent for second year commencing from November-December, 2022 till date amounting to Rs.3,78,72,000/-.

According to Applicant even the cheques issued towards SR^A premiums has been dishonoured/returned due to "insufficient funds", which creates doubts towards financial capacity of Respondent No.1. It is alleged by Applicant that there is dispute in between shareholders of Respondent No.1, which caused deadlock and also stalled the subject SR Scheme. It is further version of Applicant that the Respondent No.1 is Company of two groups of shareholders. One group is Dinesh Bansal & Anr. and other group is Provident Housing Ltd. with shareholding pattern of 40:60 respectively. It is further version of Applicant that Dinesh Bansal and Anr. filed Commercial Arbitration Petition (L) No.12423 of 2023 in Hon'ble High Court. In order dated 04.05.2023, the Hon'ble High Court recorded that 60% shareholder i.e. Provident Housing Ltd. wants to exit from subject SR Scheme.

According to Applicant the said Petition was heard on various dates and since then the said matter was not settled between shareholders. In order dated 17.08.2023 it was also recorded by Hon'ble High Court that the parties must jointly defend the present proceedings. But it appears that matter was not resolved even for jointly defending the present proceedings u/s 13(2) of the Slum Act against them. It is further version of Applicant that till date even the Respondent No.1 has not resolved the operational and management issues and majority shareholder has no interest in the subject SR Scheme. It is further version of Applicant that they have passed resolution dated 23.04.2023 for termination of appointment Respondent No.1 and appointed Pratha Constructions as new developer. The Applicant therefore prayed to terminate the appointment of Respondent No.1 as developer of subject SR Scheme.

ARGUMENT OF RESPONDENT No.1 (BANSAL GROUP)

According to Bansal Group they are holding 40% shareholding in Respondent No.1 company. According to them, the Respondent No.1 company was incorporated in or around the year 2013 and it was wholly owned and managed by Bansals. In the year 2016, through General Body Resolution the Applicant society appointed them as developer to



implement subject SR Scheme. In the year 2018, one Purvankara Group (Provident Housing Ltd.) shown interest in Respondent No.1 company and purchased 60% shares through Shareholders Purchase Agreement dated, 04.07.2018. According to them, it is the obligation of Purvankara Group to construct the buildings and ensure the sale. It is further obligation of Purvankara Group to co-operate Bansal Group to complete the subject SR Scheme and to provide appropriate finance. That, due to their independent efforts, they could have obtained Revised LOI, IOA, Plinth CC, etc. However, inspite of complying the obligations the Purvankara Group created obstruction in working of Respondent No.1 company.

According to Bansal Group due to non-cooperation on the part of Purvankara Group, they have filed Commercial Arbitration Petition (L) No.12423 of 2023 in Hon'ble High Court. They are ready to complete the subject SR Scheme in the manner agreed between Applicant and Respondent No.1. It is further version of Bansal Group that dispute arisen between the shareholders of Respondent No.1 company do not affect the development of subject SR Scheme of Applicant. On these grounds they have prayed to drop the present proceedings.

ARGUMENT OF RESPONDENT No.1 (PROVIDENT HOUSING LTD.)

According to Provident Housing Ltd., the slum dwellers of subject SR Scheme have appointed M/s. D.V. Infrahomes Pvt. Ltd. as developer. The said M/s. D.V. Infrahomes Pvt. Ltd. was incorporated in the year 2013 where Mr. Dinesh Bansal & Devanshu Bansal were 50-50% shareholders. In around 2018, they acquired 60% shareholding of M/s. D.V. Infrahomes Pvt. Ltd. and 40% shareholding was retained equally by Mr. Dinesh Bansal & Devanshu Bansal through Share Purchase and Shareholding Agreement dated 04.07.2018. However despite having entered into said Agreement in the year 2018, the SR Scheme could not be commenced as the Bansals were not able to clear the encroachments nor obtain Commencement Certificate. The Provident Housing Ltd. from time to time has infused funds in Company account towards expenses incurred towards the SR Scheme amounting to Rs.8.9 Crores. According to them, Provident Housing Ltd. is

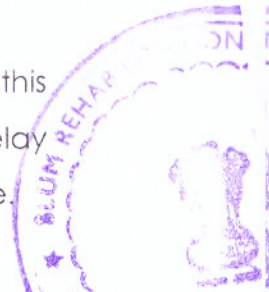
100% subsidiary of parent company i.e. Purvankara Ltd. and Purvankara Ltd. was formed in the year 1975 and completed several projects. They are holding 60% shareholding in Respondent No.1 company.

According to Provident Housing Ltd., the Bansals approached Hon'ble High Court in Commercial Arbitration Petition (L) No.12423 of 2023 by invoking arbitration clause seeking restrictions against them from interfering in subject SR Scheme. They are ready to complete the subject SR Scheme in the manner agreed between Applicant and Respondent No.1. It is further version of Provident Housing Ltd. that dispute arise between the shareholders of company do not affect the development of subject SR Scheme of Applicant.

According to Provident Housing Ltd. through General Body Resolution dated 06.04.2023, the Applicant has appointed one M/s Pratha Constructions as new developer for implementing subject SR Scheme. It is alleged by Provident Housing Ltd. that there is direct nexus between Pratha Developers Pvt. Ltd., Mr. Rakesh Sampangi & Bansals. The present application filed by Applicant is at the instance of Bansals/Pratha Developers Pvt. Ltd. It is further alleged by Provident Housing Ltd. that it is pre-meditated conspiracy by the Bansals in order to reinstate themselves as the new developer under the name of Pratha Developers Pvt. Ltd./Pratha Constructions. Through order dated 04.05.2023, by the consent of both parties, the Hon'ble High Court has appointed Justice SC Gupte (Retd.) to resolve the dispute between shareholders. However mediation also failed and upon being mediator appointed, the present application is filed before this Authority on 31.05.2023 at the behest of Bansals. In the light of these facts Provident Housing is not desirous to continue with subject SR Scheme with Bansals and willing to develop the same independently.

ISSUES

From rival contentions, 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

Before proceeding to discuss the rival contentions, it will be just and proper to mention few undisputed facts which are as under;

It is admitted fact that the proposal of subject SR Scheme is accepted by this Authority on 26.06.2006 and certified Annexure-II is issued on 26.04.2010 declaring 257 slum dwellers eligible out of total 286. The Letter of Intent & Intimation of Approval for rehab building were issued on 31.05.2016 & 18.07.2016 respectively and same were lapsed and cancelled. Thereafter the Letter of Intent was issued on 17.12.2021 as per Development Control & Promotion Regulation, 2034. The Slum Rehabilitation Authority has issued Intimation of Approval and Plinth Commencement Certificate to the composite building on 01.02.2022 & 22.12.2022 respectively. Thereafter, no further permission is issued to subject SR Scheme and the scheme is stand still. There is Stop Work notice issued on 20.12.2022 for sale component in subject SR Scheme due to nonpayment of transit rent. Due to non-payment of deferment charges, the engineering department again issued Stop Work notice to sale component on 19.04.2023.

It has also sufficiently come on record that the Respondent No.1 is Company of two groups of shareholders. One group is Dinesh Bansal & Anr. and other group is Provident Housing Ltd. (Purvankara Ltd.) with shareholding pattern of 40:60 respectively. It is admitted fact that there is dispute interse between Dinesh Bansal & Anr. and Provident Housing Ltd. The Dinesh Bansal & Anr. has filed Commercial Arbitration Petition (L) No.12423 of 2023 in Hon'ble High Court against Provident Housing Ltd. In order dated 04.05.2023, the Hon'ble High Court has observed that 60% shareholder i.e. Provident Housing Ltd. wants to exit from subject SR Scheme. In the light of these facts and circumstances this Authority proceed further to discuss about rival contentions. The official website of Hon'ble Court reveals that said Commercial Arbitration Petition is disposed of on 03.10.2023 as per Consent Minutes of Order. Though Consent Minutes of Order, the parties agreed to refer their disputes in relation to Agreement

before Mr. Justice S.J. Kathawala (Retd.), a sole Arbitrator for resolution of the disputes between parties.

It is needless to mention that the scheme is incomplete even after lapse of 17 years, so obviously there is delay in completion of subject SR Scheme. Now it will have to be seen as to whether the delay occurred in completion of scheme is intentional and due to nonperformance of Respondent No.1 or otherwise. According to Applicant after obtaining necessary permissions, the entire plot was vacated in March 2022 and Respondent No.1 agreed to pay transit rent of Rs.12,000/- p.m. to slum dwellers. The Respondent No.1 has paid the transit rent for the first year commencing from November-December, 2021 till November-December, 2022. But inspite of vacating the said plot, the Respondent No.1 failed to start construction work. According to Applicant, the Respondent No.1 is in arrears of transit rent for second year commencing from November-December, 2022 till date amounting to Rs.3,78,72,000/-. Even the cheques issued towards SRA premiums have been dishonoured/returned due to "insufficient funds", which created doubts towards financial capacity of Respondent No.1.

From rival contentions it appears that, the Respondent No.1 is company of two groups of shareholders. One group is Dinesh Bansal & Anr. and other group is Provident Housing Ltd. (Purvankara Ltd.) with shareholding pattern of 40:60 respectively. Both shareholders have submitted their separate written submissions on record. From contentions of both groups of Respondent No.1 it appears that there is infighting between them and their dispute is referred to the Arbitrator as per order dated 03.10.2023. It is contended by Bansal Group that they are holding 40% shares in Respondent No.1 company and in the year 2018, they inducted one Purvankara Group (Provident Housing Ltd.) through Shareholders Purchase Agreement dated 04.07.2018 for 60% shares. It is the obligation of Provident Housing Ltd. to construct the buildings and to complete Scheme. According to Bansal Group, they are ready to complete the subject SR Scheme in the manner agreed between Applicant and Respondent No.1



and dispute between shareholders of Respondent No.1 Company will not affect the implementation of subject SR Scheme.

There is written submission of Provident Housing Ltd. on record. According to Provident Housing Ltd. through General Body Resolution dated 06.04.2023, the Applicant has appointed one M/s Pratha Constructions as new developer for implementing subject SR Scheme. It is alleged by Provident Housing Ltd. that there is direct nexus between Pratha Developers Pvt. Ltd., Mr. Rakesh Sampangi & Bansals. The present application filed by Applicant is at the instance of Bansals/Pratha Developers Pvt. Ltd. It is further alleged by Provident Housing Ltd. that it is pre-meditated conspiracy by the Bansals in order to reinstate themselves as the new developer under the name of Pratha Developers Pvt. Ltd./Pratha Constructions. According to Provident Housing Ltd. they are not desirous to continue with subject SR Scheme with Bansals and willing to develop the same independently.

There is copy of report of Assistant Registrar/SRA dated 27.06.2023 on record. From said report it appears that, there is no Managing Committee existing after registration of Applicant society. The report further reveals that due to non-payment of transit rent to one Smt. Rekha Ramchandra Jadhav, the engineering department has issued stop work notice on 01.06.2023 to sale component of subject SR Scheme. There is no explanation forthcoming from Respondent No.1 with regard to payment of transit rent. The conduct of Respondent No.1 indicates that they are not interested in implementing the subject SR Scheme. It is needless to state that after demolition of structures of slum dwellers, the Respondent No.1 is expected to pay the transit rent to slum dwellers regularly as per circular no.153 of Slum Rehabilitation Authority. But Respondent No.1 has not acted as per said circular.

There is no any justifiable reason forthcoming from Respondent No.1 for such inordinate delay. The SRA being planning and Project Management Authority, it is bound to see that the schemes are completed within reasonable time and the eligible slum dwellers are duly

rehabilitated. Thus SRA can't be a mute spectator to the conduct³ of Respondent No.1. The developers implementing the Slum Rehabilitation Schemes are expected to complete the same within reasonable time. The Slum Rehabilitation Scheme is social welfare scheme for the benefit and advancement of slum dwellers. 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 order dated 01.03.2013 in Writ Petition No.2349 of 2012 M/s. Hi Tech India Construction V/s Chief Executive Officer/SRA are relevant. In said case the developer was terminated by Chief Executive Officer/SRA on account of delay of 3 years. The said termination was upheld by High Power Committee. The order of High Power Committee was challenged by developer through said Writ Petition. The Hon'ble High Court upheld the termination. The observation of Hon'ble High Court in para 5 of said order are relevant and same are reproduced as it is for convenience;

"The mere issuance of the letter dated 15th May, 2008, would not indicate that there was no delay on the part of the petitioners. These are slum rehabilitation schemes. It is for the developers to pursue the matter and to ensure that the scheme is implemented without delay. Developers cannot, by merely addressing letters to the authorities, sit back and contend that they had nothing more to do in the matter till they received a reply"

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."

It is contended by Provident Housing Ltd. that the Applicant has preferred the present application at the instance of the Bansals and present proceedings are nothing but proxy war between two groups of shareholders of Company. It is also admitted fact that the Bansals entered into agreement with Provident Housing Ltd. relating to the subject SR Scheme. In view of these facts this Authority do not find substance in said contentions of Provident Housing Ltd.

It has sufficiently come on record that Bansals has entered into some agreements and transactions with Provident Housing Ltd. with respect of subject SR Scheme without knowledge to the Slum Rehabilitation Authority. In fact the Respondent No.1 ought to have inform the Slum Rehabilitation Authority, but it has not been done for the reasons best known to Respondent No.1 themselves.

It is evident that there is dispute amongst the shareholders of Respondent No.1 and considering said fact there appears to be no possibility of rehabilitation of slum dwellers in near future by Respondent No.1.

In the light of above facts and circumstances this Authority has reached to conclusion that there is intentional delay and nonperformance

on the part of Respondent No.1 in completion of subject SR Scheme and it cannot be justified by any stretch of imagination. There is gross failure and non-performance on the part of Respondent No.1 and he is liable to be terminated as developer of subject SR Scheme. Accordingly following order is passed;

ORDER

1. The Respondent No.1 i.e. D.V. Infrahomes Pvt. Ltd. is hereby terminated as developer in respect of subject SR Scheme i.e. SR Scheme on land CTS No.532A(pt) of Village Pahadi Goregaon situated at Cama Industrial Estate, Walbhat Road, Goregaon (East), Mumbai – 400 063 for Hanuman Nagar SRA CHS & Azad Nagar SRA CHS.
2. The Assistant Registrar/SRA is directed to hold a General Body Meeting for appointment of Chief Promoter and other Promoters as per circular 169 of Slum Rehabilitation Authority.
3. The Applicant i.e. Hanuman Nagar SRA CHS & Azad Nagar SRA CHS is at liberty to appoint new developer as per rules, regulations and policy of Slum Rehabilitation Authority.
4. The newly appointed developer to reimburse the actual expenses incurred by Respondent No.1 in respect of subject SR Scheme till date as per the provisions of Section 13(3) of Maharashtra Slum Areas (I, C & R) Act, 1971.

Place: - Mumbai

Date: - 26 OCT 2023

25/10/2023
Chief Executive Officer
Slum Rehabilitation Authority

No.SRA/CEO Order/ Hanuman Nagar & Azad Nagar CHS/ 66/2023

Date: 26 OCT 2023

Copy to:

1. Hanuman Nagar SRA CHS &
Azad Nagar SRA CHS
CTS No.532/A(pt), Village - Pahadi Goregaon,



Taluka - Borivali, Walbhat Road,
Cama Industrial Estate,
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3. M/s. Arch View Associates
Flat No.46/2249, Suprabhat CHS,
Gandhi Nagar, Bandra (East),
Mumbai - 400 0514.
4. Dy. Chief Engineer/SRA
5. Executive Engineer (P/S Ward)/SRA
6. Deputy Collector (Spl. Cell)/SRA
7. Financial Controller/SRA
8. Assistant Registrar (W.S.)/SRA
- ✓ 9. Information Technology Officer/SRA
10. Chief Legal Consultant/SRA

