



SLUM REHABILITATION AUTHORITY

BEFORE THE CHIEF EXECUTIVE OFFICER,
SLUM REHABILITATION AUTHORITY

File No. SRA/ENG/1372/FN/ML/LOI

Priyadarshini CHS (Prop.)
Indira Nagar, Hemant Manjrekar Marg,
F.N.M.B. Sion Koliwada, Mumbai - 400 037

... Applicant

V/s

1. M/s. Santosh Builders
212A/213A, Commerce House,
140, Nagindas Master Road,
Fort, Mumbai - 400 023
2. M/s. San-Nuj Architects Planners
302, Mahalaxmi Tower, Caesar Road,
Amboli, Andheri (West),
Mumbai - 400 058

... Respondents

ORDER

(Passed on - 26.03.2024)

The present proceedings are initiated pursuant to application of Applicant dated 28.01.2022 in respect of Slum Rehabilitation Scheme on land C.S. No.12 (pt) of Sion Division for "Priyadarshini 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. 12(pt) of Sion Division have formed Applicant society 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 22.06.2017. The land under the subject SR Scheme admeasuring 2601.63 sq. mtrs. is owned by MCGM. The certified Annexure-II was issued on 12.03.2009 for total 139 number of slum dwellers out of which 68 slum dwellers were held eligible. Thereafter no permissions were issued to the subject SR Scheme and the scheme is stand still.

Due to inordinate delay in implementation of subject SR Scheme, the Applicant submitted representation dated 28.01.2022 for termination of Respondent No.1 as Developer. Pursuant to said representation a note was submitted by Tahshildar-1/SRA to the Chief Executive Officer/SRA and accordingly notices for hearing were issued to the concerned parties and the matter was heard on 21.12.2023. On said day office bearers of Applicant Society remain present. Mr. Anuj Hate remain present for Respondent No.2. None appeared for Respondent No.1 Developer. The parties were heard and the matter was closed for order. The parties were directed to submit written submissions within 7 days. In spite of the direction the Respondent No.1 has failed to submit written submission on record.

ARGUMENT OF APPLICANT SOCIETY

According to Applicant society the slum dwellers on the said plot have formed Applicant Society and appointed Respondent No.1 as Developer in the year 2014. Since appointment the Respondent No.1 has not obtained any permission for implementation of subject SR Scheme. The Respondent No.1 has lost faith in Respondent No.1 and therefore prayed to terminate the appointment of Respondent No.1 as developer of subject SR Scheme.

*
SRA



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

It is admitted fact that the proposal of subject SR Scheme is accepted by this Authority on 22.06.2017 and certified Annexure-II is issued on 12.03.2009 declaring 68 slum dwellers eligible out of total 139. After issuance of Annexure-II, there is no further permission issued to subject SR Scheme and the scheme is stand still. It is the version of Applicant that for last more than 6 years, the Respondent No.1 has failed to show any progress in the subject SR Scheme. Therefore, the Applicant society has lost faith in Respondent No.1. The Respondent No.1 also remain absent during the hearing held on 21.12.2023 inspite of issuance of notice of hearing. The Respondent No.1 has also failed to submit written submission on record. This approach of Respondent No.1 indicates that he is not interested in implementing the subject SR Scheme.

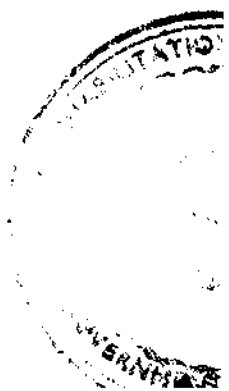
There is absolutely no progress in subject SR Scheme till date. During the said period the Respondent No.1 has not rehabilitated a single slum dweller. Obviously, there is delay. According to Applicant society the delay is on the part of Respondent No.1. Such inordinate delay in rehabilitation of slum 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 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. Santosh Builders is hereby terminated as developer of subject SR Scheme i.e. Slum Rehabilitation Scheme on land C.S. No.12(pt) of Sion Division for "Priyadarshini CHS (Prop.)
2. The Applicant Society i.e. Priyadarshini CHS (Prop.) is at liberty to appoint new developer as per 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. New Developer to comply the provisions of circular no.210 of Slum Rehabilitation Authority.

Place:- Mumbai

Date:- 26 MAR 2024


Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO Order/Priyadarshini CHS (Prop)/23 /2024

Date:

Copy to:

1. Priyadarshini CHS Ltd. (Prop)
Indira Nagar, Hemant Manjrekar Marg,
F.N.M.B. Sion Koliwada, Mumbai- 400 037
2. M/s. Santosh Builders
212A/213A, Commerce House,

- 140, Nagindas Master Road,
Fort, Mumbai- 400 023
3. M/s. San-Nuj Architects Planners
302, Mahalaxmi Tower, Caesar Road,
Amboli, Andheri (W), Mumbai- 400 058
 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

