



SLUM REHABILITATION AUTHORITY

BEFORE THE CHIEF EXECUTIVE OFFICER
SLUM REHABILITATION AUTHORITY,
Bandra (East), Mumbai

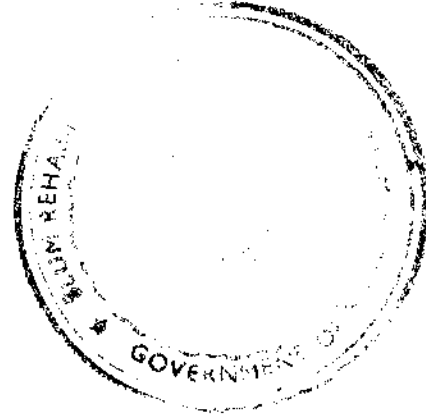
No. SRA/ENG/1787/KE/PL/LOI

Slum Rehabilitation Authority

... Applicant

V/s

1. M/s. Sardar Realty
Sardar Dairy Compound,
Kantilal Compound, Jijamata Marg,
Pump-House, Andheri (East),
Mumbai - 400 093
2. M/s. Griha Rachana,
2295, 48/Gulmohar CHS,
Gandhi Nagar, Bandra (East),
Mumbai - 400 051
3. Shree Mahakali SRA CHS (Prop.)
CTS No.392(Pt), 392/1 to 68 & 392/72 to 163,
of Village Mogra, Jijamata Marg,
Andheri (East), Mumbai - 400 093



... Respondents

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

ORDER

(Passed on 17/01/2024)

These Suo Moto proceedings are initiated in respect of Slum Rehabilitation Scheme on land bearing CTS No.392(Pt), 392/1 to 68 & 392/72 to 163 of Village Mogra, Jijamata Marg, Andheri (East), Mumbai for Shree Mahakali SRA CHS (Prop.) pursuant to the note of Executive Engineer (K/E)/SRA dated 18.01.2024. Hereinafter the above said Slum Rehabilitation

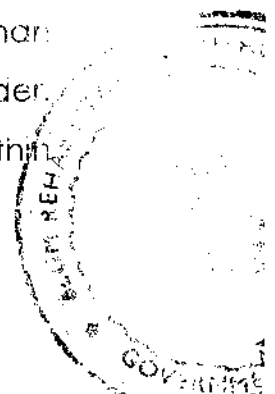
Scheme is referred to and called as "Subject S.R. Scheme". In brief the facts which lead to the present proceedings are as under:

BRIEF FACTS:

The slum dwellers residing on plot of land bearing CTS No.392(Pt), 392/1 to 68 & 392/72 to 163 of Village Mogra, Jijamata Marg, Andheri (East), Mumbai formed Respondent No.3 Society i.e. Shree Mahakali SRA CHS (Prop.) 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 for implementation of subject S.R. Scheme. The proposal of subject S.R. Scheme was submitted to Slum Rehabilitation Authority on land admeasuring 8001 sq. mtrs. The said land is privately owned. The proposal of subject S.R. scheme is accepted by Slum Rehabilitation Authority on 13.09.2007. Annexure-II is issued by Competent Authority on 20.12.2012 for total 248 slum dwellers, out of which 121 were declared as eligible. However, thereafter there is absolutely no progress in subject S.R. Scheme and the Scheme is stand still.

The note of Engineering department dated 18.01.2024 is on record. From said note it appears that the Slum Rehabilitation Authority has recorded 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.113. 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 vs. Chief Executive Officer/SRA & Anr.

Pursuant to said order, the notices of hearing were issued to the concerned parties and matter was heard on 15.02.2024. On said day Advocate Akash Bhogil appeared on behalf of Respondent No.1. Office bearers of Respondent No.3 Society remain present alongwith Adv. Manoj Chovari. The parties were heard at length and matter was closed for order. Directions were given to parties to submit their written submissions within fifteen days.



ARGUMENT OF RESPONDENT NO.3

There appears to be two fractions in Respondent No.3 society. One fraction is led by Shri Santosh Borkar and another fraction is led by Shri Sudan Mestry. Both of them claiming to be Chief Promoter of Respondent No.3 society. Fraction led by Shri Sudan Mestry has submitted written submissions on record. The contentions of both fractions regarding termination of Respondent No.1 is different. The fraction led by Shri Santosh Borkar has raised objection for issuing Letter of Intent, Intimation of Approval & Commencement Certificate for redevelopment of subject SR Scheme and requested termination of Respondent No.1. On the other hand the fraction led by Shri Sudan Mestry contends that they have full faith and trust in Respondent No.1 for implementing subject SR Scheme. According to him, the proposal of subject SR Scheme is accepted on 13.09.2007 and Annexure-II issued on 20.12.2012. According to him delay is not attributable to Respondent No.1, but the same has occurred due to non-co-operation on the part of the disgruntled slum dwellers, reservation of DP Road of 9.15 mtrs. in DCPR, 2034, height restrictions, Covid-19 pandemic, etc. Further the proposal was recorded in the list of 517 dormant proposals through Public Notice dated 20.04.2022. In said list the subject SR Scheme was at Sr. No.113. The said Public Notice is set aside through order dated 10.01.2023 in Writ Petition (L) No.14017 of 2022 by Hon'ble High Court. On these grounds, fraction led by Shri Sudan Mestry has prayed to drop the proceedings initiated against Respondent No.1.

ARGUMENT OF RESPONDENT NO.1

It is the version of Respondent No.1 that the Respondent No.3 Society has appointed them as developer of subject SR Scheme. According to Respondent No.1 through registered Development Agreement dated 11.10.2006 the owner of the said land M/s. Maredia Association Construction Pvt. Ltd. has granted development rights for redevelopment of said land in their favour. There is no delay on their part but same has occurred due to opposition of non-cooperative slum dwellers to co-operate to survey officials


GRA



as well as demand of excess carpet area of 450 sq. ft., the subject SR Scheme is delayed.

It is further version of Respondent No.1 that due to height restriction they were required to approach Airport Authority of India and after continuous follow up they succeeded in obtaining NOC dated 27.08.2018 from Airport Authority of India for height of 59.9 mtrs. But as per the feasibility reports they could have granted 81.17 AMSL, so they filed Appeal and Appeal is pending. It is further version of Respondent No.1 that they also spent more than 25 Lakhs for construction of 16 toilets with permission of MCGM during the Covid-19 pandemic.

It is further version of Respondent No.1 that, the Secretary/SRA had issued notice u/s 13(2) of the Slum Act on 21.12.2020 and sought explanation for delay in subject SR Scheme. The said notice were duly replied by Respondent No.1 & 3 and in reply society has shown support to them for further implementation of subject SR Scheme. It is the case of Respondent No.1 that they are ready and willing to implement the subject SR Scheme but due to non-cooperation of disgruntled members of Respondent No.3 society, the proposal could not be processed further. There is no delay on their part but the same has occurred due to non-cooperation on the part of disgruntled slum dwellers. Moreover due to Covid-19 pandemic, a nationwide Lockdown was imposed, therefore Scheme could not be processed. Further this Authority has recorded 517 dormant proposals through Public Notice dated 20.04.2022. In said list of 517 Schemes, the subject SR Scheme is at Sr. No.113. It is further version of Respondent No.1 that there is no General Body Resolution of society for termination of appointment of developer and on this count the contention of the disgruntled slum dwellers cannot be considered.

ISSUES

From rival contentions the issue that arises for determination of this Authority is as to whether there is nonperformance on the part of Respondent No.1 and delay in implementation of subject S.R. Scheme is attributable to Respondent No.1.



REASONS

It is admitted fact that the proposal of subject S.R. Scheme is accepted by this Authority on 13.09.2007 and certified Annexure-II is issued on 20.12.2012 for total 248 slum dwellers out of which 121 slum dwellers were declared as eligible. Thereafter, no further approvals are issued to subject SR Scheme and the scheme is stand still.

It is submitted on behalf of Respondent No.1 that the delay is not attributable to them but the same was occurred due to non-co-operation on the part of the disgruntled slum dwellers, reservation of DP Road of 2.15 mtrs. in DCPR, 2034, height restriction, Covid-19 pandemic, etc. There is copy of report of DSLR/SRA dated 13.10.2021 on record. It appears from said report that M/s. Maredia Association Construction Pvt. Ltd. is the owner of said land and they have granted development rights in favour of Respondent No.1 through registered Development Agreement dated 11.10.2006. It is alleged by Respondent No.1 that this Authority had recorded 517 Slum Rehabilitation Schemes through Public Notice dated 20.04.2022. In said list the subject SR Scheme was at Sr. No.113. The said Public Notice was 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.

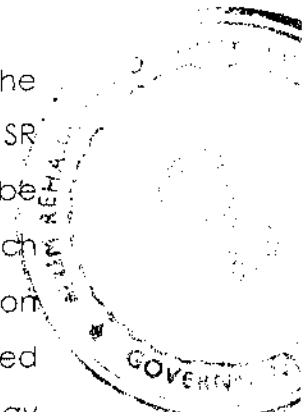
From record it appears that there are two fractions in Respondent No.3 society. One fraction is led by Shri Santosh Borkar and another fraction is led by Shri Sudan Mestry. Both of them claiming to be Chief Promoter of Respondent No.3 society. Fraction led by Shri Sudan Mestry has submitted written submissions on record. The contentions of both fractions regarding termination of Respondent No.1 is different. The fraction led by Shri Santosh Borkar has raised objection for issuing LOI, IOD & CC for redevelopment of subject SR Scheme and requested termination of Respondent No.1. On the other hand the fraction led by Shri Sudan Mestry contends that they have full faith and trust in Respondent No.1 for implementing subject SR Scheme.

The Advocate for Respondent No.1 further submitted that there is no delay at all on the part of Respondent No.1 in implementation of subject SR Scheme and it is the non-co-operative slum dwellers who are creating obstacles. He further submitted that such practice of non-co-operative slum dwellers should be discouraged otherwise it will not be possible to redevelop the slums.

The present proceeding is initiated pursuant to note of Engineering department dated 18.01.2024. The Slum Rehabilitation Authority has recorded 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.113. 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.

The developers implementing the SR Schemes are expected to complete the Scheme and rehabilitate the slum dwellers within reasonable time. This Authority is conscious of the delay occurred in implementation of subject SR Scheme. For action u/s 13 (2) of the Maharashtra Slum Areas (I. C & R) Act, 1971, this Authority is required to verify the facts and cause of delay, merely for the reason that the scheme is not completed within reasonable time the inference cannot be drawn of willful delay or incompetence of the developer. It is necessary to look into the factual aspect which resulted in delay in completion of the Scheme. Considering the facts of present case it will not be proper to terminate the Respondent No.1 as developer merely due to non-co-operation of disgruntled slum dwellers.

It is pertinent to note that the Respondent No.1 has obtained the development rights from its owner to redevelop the land of subject SR Scheme. In the event of termination of Respondent No.1, the society will be required to move proposal for acquisition of said land for which considerable time will be required. Moreover the possibility of litigation cannot be ruled out. Considering the submission and argument advanced before this Authority it is difficult to conclude that there is intentional delay



on the part of Respondent No.1. It appears that the delay is occurred due to dispute in between Respondent No.3 Society. Therefore, it will be just and proper to drop the present proceeding. Accordingly following order is passed.

ORDER

1. The Proceedings against Respondent No.1 i.e. M/s. Sardar Realty Pvt. Ltd. are hereby dropped.
2. The Respondent No.1 is directed to submit bar chart regarding time bound implementation of the subject SR Scheme.
3. The Respondent No.1 is directed to comply with the provisions of circular no.210 of Slum Rehabilitation Authority.
4. The Executive Engineer shall periodically visit the site and ensure that the Respondent No.1 is implementing the subject SR Scheme in time bound manner.

Place:- Mumbai

Date:- 27 APR 2024


Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO/13(2)/Shree Mahakali CHS/27/2024

Date: 27 APR 2024

Copy to,

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CTS No.392(Pt), 392/1 to 68 & 392/72 to 163,
of Village Mogra, Jijamata Marg,
Andheri (East), Mumbai - 400 093
4. Deputy Chief Engineer/SRA
5. Executive Engineer (K/E Ward)/SRA

6. Deputy Collector (Spl. Cell)/SRA
7. Finance Controller/SRA
8. Chief Legal Consultant/SRA
9. Assistant Registrar (W.S.)/SRA
10. IT Officer/SRA

