

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

SRA/ENG/2568/KE/PL/LOI

Slum Rehabilitation Authority

... Applicant

V/s

1. Sairaj Construction Company
764/E, Umri Nagar, Bldg. No.2,
Ground Floor, Tilak Road, Parsi Colony,
Dadar (East), Mumbai – 400 014
2. B.S Talpade & Associates
1, Khanderao Smruti, Near Municipal School,
Datta Pada Road, Borivali (East),
Mumbai – 400 066
3. Siddh Ganesh CHS
CTS No.393, 393/1 to 40,
Mauje - Mogra, Taluka – Andheri (East),
Jijamata Road, Pump House,
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 17/11/23)

These Suo-Moto proceedings are initiated in respect of Slum Rehabilitation Scheme on land bearing CTS No.393, 393/1 to 40 of Village Mogra for "Siddh Ganesh CHS" pursuant to the note of Executive Engineer (K/E Ward)/SRA dated 27.07.2023. Hereinafter the above said Slum Rehabilitation Scheme is referred to and called as

SRA

"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.393, 393/1 to 40 of Village - Mogra formed Respondent No.3 society i.e. "Siddh Ganesh CHS" 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 S.R. Scheme. The proposal of subject S.R. Scheme was submitted to Slum Rehabilitation Authority on land admeasuring 2034.09 sq. mtrs. The said land is privately owned. The proposal of subject S. R. scheme is accepted by Slum Rehabilitation Authority on 08.07.2011. However thereafter there is absolutely no progress in subject S. R. Scheme and the Scheme is stand still.

The note of Engineering department dated 27.07.2023 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.127. 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.

Pursuant to said order, the notices were issued to the concerned parties and matter was heard on 24.08.2023. On said day representatives of Respondent No.3 Society remain present. Shri. Noor Mohammad Deraiya remain present for Respondent No.1. The parties were heard at length and matter was closed for order. Directions were given to parties to submit their written submissions within 10 days. Though the representative of Respondent No.1 remain present for hearing, they failed to submit written submission on record.



ARGUMENT OF RESPONDENT NO.3 SOCIETY

According to Respondent No.3, they have formed proposed Siddh Ganesh CHS for redevelopment of land in their occupation and accordingly they have passed resolution for appointment of Respondent No.1 as developer in the year 2008. It is further version of Respondent No.3 that the proposal of subject SR Scheme is accepted by this Authority on 08.07.2011. After appointment of Respondent No.1, there is no progress shown in subject SR Scheme. There is delay on the part of Respondent No.1 for 16 years from the date of appointment. The slum dwellers of the Respondent No.3 society are leaving in unhygienic condition since last so many years. The structures of slum dwellers are also affected in the Jijamata Road widening. According to Respondent No.3 water logging occurs during raining season due to insufficient drainage system. Due to water logging various diseases like dengue, malaria etc. are spread in locality. It is further version of Respondent No.3 that Respondent No.1 is avoiding the members of Society and has failed to comply with their duty which is causing hardship to them. On these grounds the Respondent No.3 prayed to terminate the appointment of Respondent No.1 as developer.

ISSUES

From facts on record 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 08.07.2011. However thereafter there is absolutely no progress in subject SR Scheme and the Scheme is stand still. The period of more than 12 years has passed and till date not a single slum dweller is rehabilitated. It is the version of Respondent No.3



society that there is delay on the part of Respondent No.1 since appointment.

The record reveals that, this 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 S.R. Scheme is at Sr. No.130. 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 record further reveals that the Hon'ble High Court has quashed the Public Notice dated 20.04.2022 in Writ Petition (L) No.14017 of 2022 Nipun Thakkar V/s. CEO/SRA & Anr. It is pertinent to note that while quashing the Public Notice dated 20.04.2022, the Hon'ble High Court in order dated 10.01.2023 in para 13 have made following observation:

"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".

From above observation of Hon'ble High Court, it is crystal clear that the Hon'ble High Court has not restricted or constrained the powers of this authority to take action in accordance with law, where justified. In other words, this Authority is having powers to take action in case of inordinate delay.

Though the representative of Respondent No.1 remain present during hearing held on 24.08.2023, they failed to submit written submission on record. The conduct of Respondent No.1 indicates that they are not interested in implementing the subject SR Scheme. The representative of Respondent No.1 during the hearing has also stated that the developer and Architect of subject SR Scheme is died. 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. There is no progress at all and scheme is stand still. The period of more than 12 years is considerable period. Obviously, there is delay in implementation of subject S.R. Scheme. 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 can't be a mute spectator to such nonperformance. 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 the 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;

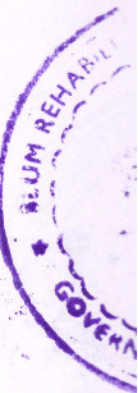
"The mere issuance of the letter dated 15th May, 2008, would not indicate that there was no delay on the part of the petitioners. These are slum rehabilitation schemes. It is for the developers to pursue the matter and to ensure that the scheme is implemented without delay.

Developer 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 and 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."

Considering these facts and circumstances this Authority has come to conclusion that there is non-performance and inordinate delay on the part of Respondent No.1 in implementation of subject S.R. Scheme and Respondent No.1 is liable to be terminated as developer of subject S. R. Scheme. Accordingly following order is passed.

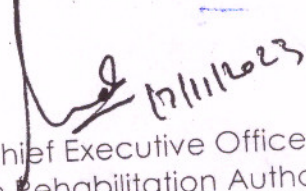


ORDER

1. The Respondent No.1 i.e. Sairaj Construction Company is hereby terminated as Developer of S.R. Scheme on land bearing CTS No. 393, 393/1 to 40 of Village Mogra for Siddh Ganesh CHS.
2. The Respondent No.3 i.e. Siddh Ganesh CHS is at liberty to appoint new developer of its choice in accordance with rules, regulation and policy of Slum Rehabilitation Authority.
3. The new incoming developer to reimburse the actual expenses incurred by Respondent No.1 as per provisions of section 13(3) of the Maharashtra Slum Areas (I, C & R) Act, 1971.

Place:- Mumbai

Date:- **17 NOV 2023**


Chief Executive Officer
Slum Rehabilitation Authority

No.SRA/CEO/13(2)/Siddh Ganesh CHS/68 /2023

Date: **17 NOV 2023**

Copy to:

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Mauje - Mogra, Taluka - Andheri (East),
Jijamata Road, Pump House,
Mumbai - 400 093
4. Deputy Chief Engineer/SRA
5. Executive Engineer (K/E)/SRA
6. Deputy Collector (Spl. Cell)/SRA
7. Finance Controller/SRA
8. Chief Legal Consultant/SRA
9. Joint Registrar (W.S.)/SRA
10. IT Officer/SRA

