



SLUM REHABILITATION AUTHORITY

BEFORE THE DEPUTY COLLECTOR (ES)

SLUM REHABILITATION AUTHORITY, MUMBAI.

[FILE NO.SRA/ENG1687/ME/ML/LOI-Case no.089/2018]

Slum Rehabilitation Authority

Applicant

V/s

1. M/s. S.P.Erectors & Developers Pvt. Ltd.
Unit No.420, 4th floor,Laxmi Plaza,
Laxmi Industrial Estate,
New Link Road,
Andheri (West),
Mumbai : 400 053.

2. M/s. Mukesh D. GamiArchitectural Consultants
5, Chetna 124, Vallabh Bhai Road,
Vile Parle (West), Mumbai : 400 056.

Respondents.

Sub: Proceedings under Section 13(2) of Slum Rehabilitation

Areas (I.C.& R) Act, 1971.

(Order passed on Date 28/11/2018)

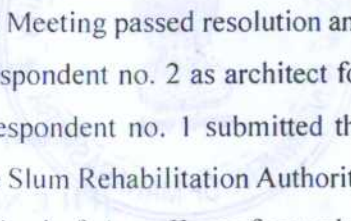

These proceedings are initiated in respect of Slum Rehabilitation Scheme of land C.T.S. No. 7(pt) S.No.97 (pt) village Borla, P.L.Lokhande Marg, Govandi, Mumbai 400 043 for Shiveneri CHS(Prop.) on account of non-performance and inordinate delay by Respondent No. 1. Hereinafter the above said slum rehabilitation scheme is referred to and called as subject slum rehabilitation scheme.

BRIEF FACTS

The land bearing C.T.S. No. 7(pt) S.No.97 (pt) village Borla, P.L.Lokhande Marg, Govandi, admeasuring 4042.33 sq.mtr. of Village Borla, P.L. Lokhande Marg, Govandi is owned by MCGM and same is encroached by slum dwellers since long. The slum located on said plot of land is census slum. The total slum dwellers are 113. The slum dwellers residing on said land resolved to redevelop the land in their occupation by implementing the slum rehabilitation scheme. And formed

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proposed shivneri CHS. Thereafter in General Body Meeting passed resolution and appointed the respondent no. 1 as developer and respondent no. 2 as architect for redevelopment. Pursuant to the appointment the respondent no. 1 submitted the proposal of subject slum rehabilitation scheme to the Slum Rehabilitation Authority and the same is accepted on 31.10.2006. Thereafter the draft Ann.-II was forwarded to Asstt. Municipal Commissioner, MCGM for certification. However, the respondent no. 1 failed to obtain the certified Ann-II even after lapse of 12 years. Since the acceptance of proposal the subject slum rehabilitation scheme is stand still and there is absolutely no progress. There is total non-performance on the part of respondent no. 1. This Authority being Project Management Authority is duty bound to see that the slum rehabilitation schemes are completed within reasonable time and slum dwellers are properly rehabilitated. The Executive Engineer-III through letter dated 25.09.2018 informed about the non-performance of respondent no. 1 to this Authority and pursuant thereto the show cause notice was issued to respondents calling upon them to show cause as to why the action under Section 13(2) of Maharashtra Slum Areas (I.C.& R.) Act should not be taken against them.

HEARING AND ISSUES:

In response to notice the respondent no. 1 appeared through Mr. Bharat Mehta. The copy of notice was also served to the Chief Promoter of Shivneri CHS but nobody appeared for society. The respondent no. 1 is heard at length on 02.11.2018. The respondent no. 1 also submitted his say in writing. From the facts and circumstances on record the issue that arise for the determination of this Authority is as to whether there is non-performance and inordinate delay on the part of respondent no. 1.

ARGUMENT OF RESPONDENT NO. 1:

The respondent no. 1 has alleged in his say dated 12.11.2018 that the Ann.-II was prepared by Asstt. Commissioner on 27.01.2010 and same was forwarded to Estate Department of M.C.G.M. for further action but Estate Department returned the Ann-II stating that the same is incomplete. Thereafter again Ann-II was forwarded by the Asstt. Commissioner on 25.02.2015 after complying with the



objection raised by the Estate Department. There is continuous follow-up on their part. They are ready to deposit the land premium with M.C.G.M. but there is no response from the concerned department of M.C.G.M. The respondent no. 1 submitted that they are not responsible for the delay caused in implementation of slum rehabilitation scheme.

DISCUSSION:

It is admitted fact that period of more than 12 years has passed since the acceptance of proposal. It is also not in dispute that even after lapse of 12 years preliminary formality of obtaining certified Ann-II is not completed. Obviously there is inordinate delay in implementation of slum rehabilitation scheme. Now, it will have to be seen whether the delay is intentionally and due to non-performance on the part of respondent no. 1. In this regard it is the version of respondent no. 1 that after acceptance of proposal the draft Ann-II was forwarded to Asstt. Commissioner, M.C.G.M. for certification. Time to time they visited the office of Asstt. Commissioner as well as Estate Department for payment of land premium. Since there was no response on the part of Estate Department, the correspondence was made by them with Hon'ble Chief Minister, Housing Minister, Chief Executive Officer, Slum Rehabilitation Authority and they are not responsible for the delay. On careful consideration of facts and circumstances on record, the contention of respondent no. 1 does not appear to be just and proper. Mere correspondence on the part of respondent no. 1 is not sufficient. When the respondent no. 1 has accepted to redevelop the land, it is their duty to take necessary steps and to complete the subject slum rehabilitation scheme within reasonable period. In this regard, the observation of Hon'ble High Court in Writ Petition No. 2349 of 2012 – M/s. Hi Tech India Constructions- v/s – Chief Executive Officer, Slum Rehabilitation Authority are relevant. In said Writ Petition, the Hon'ble High Court has observed that the developers implementing the slum rehabilitation schemes are expected to complete the schemes within reasonable period and they cannot by merely addressing letters to the authorities sit back and contend that they had nothing more than to do in the matter till they received a reply. In said case the developer was terminated on account of delay of three years in implementation of slum



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rehabilitation scheme, and the termination is upheld by Hon'ble High Court. For the sake of convenience, the Para-5 of the said order is reproduced as it is.

“Para 5: 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.”

In view of the aforesaid ratio of Hon'ble High Court the delay of more than 12 years occurred in present case cannot be justified by any stretch of imagination. Moreover, there is no any justifiable explanation forth coming from the respondent no. 1. In view of these facts and circumstances, this Authority has come to the conclusion that there is non-performance and inordinate delay on the part of respondent no. 1. The delay occurred due to incompetence of respondent no. 1 will have to be termed as intentional delay. Further the Hon'ble High Court in Appeal Form Order No. 1019 of 2010 M/s. Ravi Ashish Land Developers- v/s-Mr. Prakash Kamble & Anr. has observed as under:

“When the slum rehabilitation projects which are undertaken by the statutory authority enjoying enormous statutory power, are incomplete even after twenty years of their commencement, then it speaks volume of the competency 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 wit for developer to complete the project. They are not helpless in either removing the slum dwellers or the developer. The speed with which they remove the slum dwellers from 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. “.....”. The Slum Rehabilitation Authority has been conferred with the powers and each one of them coupled with a duty. If the slum dwellers are eligible to be entitled to be rehabilitated at site and within a reasonable period, they cannot be left at the

