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SLUM REHABILITATION AUTHORITY

BEFORE THE CHIEF EXECUTIVE OFFICER, SLUM REHABILITATION AUTHORITY

Ali Bahadur SRA CHS Ltd.
CTS No.653/1 to 10 Mauje Mulund,
Taluka Kurla, A.C.C. Road,
Near Mulund Check Naka,
Mulund (West), Mumbai - 400 080

... Applicant

V/s

M/s. Rupaji Construction,
C/36, Shree Ram Industrial Estate,
3rd Floor, G.D. Ambedkar Road,
Wadala, Mumbai - 400 052

... Respondent

ORDER

(Passed on)

In the present proceeding, members of the Applicant society the Applicant society have submitted representations for the non-payment of rent compensation since the year 2016. The Applicant society also submitted application dated 05.07.2016 with the same grievance. In pursuant to said application of Applicant, the hearing was conducted on 11.08.2016, 30.08.2016, 03.01.2017, 09.01.2017 & 17.01.2017 before the Assistant Registrar C.S. (Eastern & Western Suburbs)/SRA. In spite of directions in those hearing the Developer has failed to pay the rent to the slum dwellers. Therefore, the construction of the sale Component in the subject SR Scheme was stopped by letter 31.03.2017 on grounds of non-payment of rent to the eligible slum dwellers.



Thereafter, on the representation of the Applicant dated 04.07.2017 for non-payment of rent compensation, in spite of the directions to stop work of the sale portion of subject SR Scheme, the present proceeding is initiated. Accordingly notices to the Applicant

and Respondent to remain present in the hearing was issued. Parties were heard on 27.06.2018 & 10.10.2018. After hearing the concerned parties, the matter was closed for order on 10.10.2018

FACTS IN BRIEF:

Slum Dwellers residing on plot of land bearing C.T.S. No. 653, 653/1 to 10 Mauje Mulund, Taluka Kurla, admeasuring 721.40 sq. mtrs. formed Ali Bahdur SRA CHS i.e. Applicant above named. Applicant society..appointed Respondent as their Developer for the said S.R. Scheme by passing General Body resolution. Accordingly the Respondent has submitted proposal of subject S.R. Scheme to Slum Rehabilitation Authority and the same is accepted on 08.03.2013. The Additional Collector (Enc./Rem.) has issued certified Annexure II on 07.07.2012 & 16.07.2012 for total 47 number of slum dwellers, out of which 33 slum dwellers are held eligible. LOI was issued on 12.11.2012. IOA for Composite Building was issued on 01.08.2013, plinth C.C. was issued on 20.12.2013 and Full CC was issued on 31.10.2014. Since then no further approvals are granted to the scheme.

HEARING:

In the present hearing Shri. Jagtap, Chairman of the Applicant society alongwith other Committee members present. The Respondent remained absent. During hearing held on 10.10.2018, the matter was closed for order.

ARGUMENTS OF APPLICANT SOCIETY VIZ. ALI BAHADUR SRA CHS LTD.

The applicant stated in his representation dated 05.07.2016 that, the Respondent Developer has not paid the rent compensation since the year 2016 and therefore requested to initiate action against him. Thereafter, the Applicant by letter dated 19.09.2016 has requested that, due to settlement they are withdrawing their complaints against the Respondent, But later on by letter dated 26.10.2016, they restored



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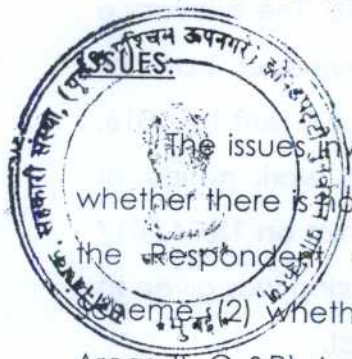
their complaints and further requested to initiate action in this matter. The Applicant also stated that Respondent has paid only 3 month rent out of the arrears of 16 months to eligible slum dwellers.

The Applicant stated that, by various letters as well as representation dated 04.07.2017, they have requested to terminate the appointment of Developer from the subject SR Scheme on the grounds that he is not financial sound to further implementation of the SR Scheme.

ARGUMENTS OF RESPONDENT DEVELOPER VIZ. M/S. RUPAJI CONSTRUCTION

By the letter dated 24.01.2017, the Respondent has stated that, the Applicant society was stopping the construction work wherein rehab building work was going on. Being a Composite Building as plot is odd shaped narrow and set back to the extent of maximum 60% is handed over to BMC, taking into consideration widening of the road width. Therefore he has requested the SRA not to entertain the complaint of the Applicant for stop work.

By the letter dated 20.04.2017, the Respondent stated that, he has deposited amount of Rs.10,89,000/- for 3 month for 33 eligible slum dwellers on 13.04.2017 and therefore requested the SRA to withdraw the stop work notice issued to Sale portion of composite Building.



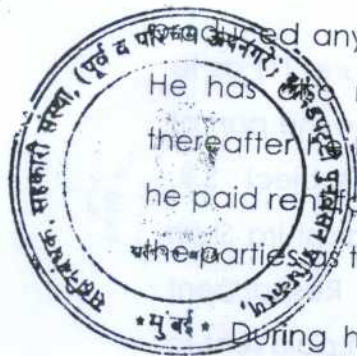
The issues involved in this matter for determination are: (1) as to whether there is non performance and inordinate delay on the part of the Respondent developer while implementing the subject S.R. Scheme, (2) whether action under section 13(2) of Maharashtra Slum Areas (I, C & R) Act, 1971 should be initiated against the Respondent Developer, (3) whether the Respondent Developer has not paid rent to the slum dwellers.

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DISCUSSION AND CONCLUSION:

In the present matter, the non-payment of rent compensation to eligible slum dwellers is persistent fact. For that purpose initially hearings were conducted before Assistant Registrar C.S. (Eastern & Western Suburbs)/SRA between 11.08.2016 and 17.01.2017. In spite of the directions given to the Developer he failed to make payment. Thereafter by notice dated 31.03.2017, the Developer was directed to stop work of Sale Component till the payment of the arrears of the rent compensation. The Respondent Developer did not take steps. The Applicant Society therefore made representation dated 04.07.2017. Because of the default on the part of the Developer, proceeding u/s 13(2) of Slum Act were initiated.

It is apparent that LOI was issued on 12.11.2012 and IOA for composite building was issued on 01.08.2013. Even the full CC was issued on 31.10.2014. As such there was no hurdle in construction of the Building. The entitlement of eligible slum dwellers of the rent compensation has not been disputed. The rent has been paid till about year 2016 and since then the same has not been paid. The grievance was made by the Society on 05.07.2016. The Developer has not produced any documents to show that he has paid full rent for 2016. He has also not said that before issuance of stop work notice or thereafter he has paid any rent. Even according to him on 13.04.2017 he paid rent for only 3 months, in this background hearing was given to the parties as to action to be taken u/s. 13(2) of the Act.



During hearing on 27.06.2018, the Developer made statement that he is ready to pay the rent provided he is permitted to construct the building. The matter was adjourn to 27.07.2018 with the directions to both the parties to settle the matter as to payment of rent and produce the report to that effect. It appears from the record that on

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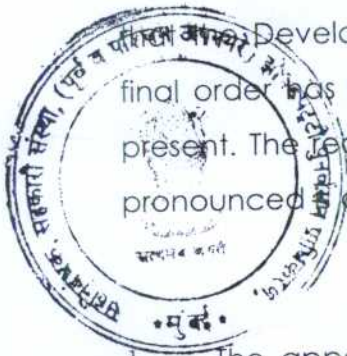
08.07.2018, a meeting was held. The representatives of society and Developer M/s. Rupaji Construction made the following proposal.

"Mr. Tejal Rupji has given proposal to the society that he will give the Rs. 33 Lakhs for rent towards total outstanding of rent Rs. 83 lakhs. Thereafter the balance amount of Rs. 50 lakh will be release per month Ten lakh and clear the total outstanding of Rs. 83 lakh within five months or thereabout.

The amount of Rs. 33 lakh will be release only after the approval of the Hon'ble High Court Justice Kathawala to start the further work. The above amount of Rs. 33 lakh will be release within 15 days from the date of the Hon'ble High Court order."

The Society did not agree for payment in installment and insisted for the total payment of Rs. 83 Lakhs. The minutes are placed on record by M/s. Rupaji Construction along with letter dated 23.07.2018.

On 27.07.2018, the matter was adjourned for administrative reason and it was kept on for hearing on 10.10.2018. On 10.10.2018, none appear for Respondent Developer neither is any compliance as to payment of rent which was in arrears to the tune of Rs. 83 Lakhs. Considering the total circumstances of the case, it has been observed Developer does not want to clear the dues and hence the final order has been dictated in the presence of parties which were present. The Reasons for the order are recorded today. The final order pronounced as under:



ORDER

1. The appointment of Developer i.e. M/s. Rupaji Construction in respect of plot of land bearing C.T.S. No. 653, 653/1 to 10 Mauje Mulund, Taluka Kurla, admeasuring 721.40 sq. mtrs. for Applicant Society i.e. Ali Bahdur SRA CHS hereby stands terminated w.e.f. 10.10.2018.

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2. The Applicant society shall take General Body Resolution for appointment of new Developer within 90 days of the date of signing of this order.
3. The Engineering Department of SRA to appoint Government Approved Valuer for expenses legally incurred for the said scheme by Respondent Developer & direct the newly appointed Developer to deposit the said assessed amount of compensation within 45 days of the date of final assessment of compensation by the Hon'ble CEO/SRA.



Place - Mumbai,
Date- 19-12-2018

Chief executive Officer
Slum Rehabilitation Authority

SRA/colow/24521

No - SRA/CEO/AR/Ali Bahadur SRA CHS 13(2)/ /2018
Date- 19-12-2018

Copy to:

1. Ali Bahadur SRA CHS Ltd.
CTS No.653/1 to 10 Mauje Mulund,
Taluka Kurla, A.C.C. Road,
Near Mulund Check Naka,
Mulund (West), Mumbai - 400 080.
2. M/s. Rupaji Construction,
C/36, Shree Ram Industrial Estate,
3rd Floor, G.D. Ambedkar Road,
Wadala, Mumbai - 400 052
3. Deputy Chief Engineer-I/SRA
4. Deputy Collector (E.S.)/ SRA
5. Joint Registrar C.S. (Eastern & Western Suburbs)/SRA
6. Finance Controller/SRA
7. Chief Legal Consultant/SRA
8. Astt. Town Planner/SRA
9. Administrative Officer/SRA
- ✓ 10. IT Officer - To update the fact sheet and computer record.