



SLUM REHABILITATION AUTHORITY

**BEFORE THE CHIEF EXECUTIVE OFFICER,
SLUM REHABILITATION AUTHORITY**

File No. SRA/ENG/1487/HW/PL/LOI

Sarvodaya SRA CHS Ltd.
CTS No.F/1533, Plot No.578,
5th Road, Old Khar (W),
Mumbai - 400 052

... Applicant

V/s

1. M/s. Gurunanak Developer (I) Pvt. Ltd.
901, Sapphire, S.V. Road,
1st Road Corner, Khar (W),
Mumbai - 400 052
2. M/s. Dot Architects
Gr. Floor, Sharda Sangeet Vidyalaya Building,
Kala Nagar, Bandra (East),
Mumbai - 400 051

... Respondents

ORDER

(Passed on - 15/6/22)

The present proceedings are initiated pursuant to application of Applicant dated 25.03.2022 in respect of Slum Rehabilitation Scheme on land CTS No.F/1533 of Village Bandra, F.P. No.578 of TPS III of Bandra at 5th Road, Khar (West) for "Sarvodaya SRA CHS" clubbed with approved Slum Rehabilitation Scheme of "Nikhar SRA CHS" on plot bearing F.P. No.663 of TPS III, CTS No.E-128 of Village Bandra. Hereinafter the above said Slum Rehabilitation Scheme is referred to and called as "subject SR Scheme". In brief the facts which lead to present proceedings are as under;

CEO / SRA

BRIEF FACTS:

The slum dwellers residing on plot of land bearing CTS No.F/1533 of Village Bandra, F.P. No.578 of TPS III of Bandra at 5th Road, Khar (West) formed Applicant Society i.e. Sarvodaya SRA CHS and in General Body Meeting resolved to redevelop the said land by implementing the Slum Rehabilitation Scheme. The Applicant society appointed Respondent No.1- as Developer and Respondent No.2 as Architect for redevelopment. Pursuant to appointment, the Respondent No.1 submitted proposal of Slum Rehabilitation Scheme of Applicant society to Slum Rehabilitation Authority on land admeasuring 710.70 sq. mtrs. The said land is private land. The proposal of Applicant society is duly accepted on 26.07.2004. The Letter of Intent was issued on 15.09.2005.

The record reveals that slum dwellers residing on plot of land bearing F.P. No.663 of TPS III, CTS No.E-128 of Village Bandra formed Nikhar SRA CHS and they have also appointed Respondent No.1 as developer. The Respondent No.1 has submitted the proposal for clubbing of SR Scheme of Applicant society and sanctioned SR Scheme of Nikhar SRA CHS. Accordingly clubbing Revised Letter of Intent to subject SR Scheme was issued on 25.05.2007. The record further reveals that in SR Scheme of Sarvodaya SRA CHS, there are total 42 eligible slum dwellers and the Respondent No.1 has proposed to shift all the 12 rehab tenements alongwith 15 PAP tenements in the sanctioned SR Scheme of Nikhar SRA CHS to the site of SR Scheme of Sarvodaya SRA CHS. Further the sale component from the SR Scheme of Sarvodaya SRA CHS is also shifted to the site of Nikhar SRA CHS.

After clubbing of subject SR Scheme, the Intimation of Approval to rehab building at Sarvodaya SRA CHS was issued on 11.09.2007 and the same was lastly amended on 01.07.2010 for Gr + 13 floors for 54 residential tenements (42 residential tenements of Sarvodaya SRA CHS & 12 residential tenements of Nikhar SRA CHS) and 15 PAP tenements. The Plinth Commencement Certificate to rehab building at Sarvodaya SRA CHS was issued on 18.09.2007 and further Commencement Certificate



was issued on 01.07.2010. Intimation of Approval to sale building at Nikhar SRA CHS was issued on 06.12.2005 and same was lastly amended on 03.02.2010. Plinth Commencement Certificate to sale building at the site of Nikhar SRA CHS was issued on 22.12.2005 and further Commencement Certificate was issued on 03.02.2010. Since the acceptance of initial proposal the period of more than 18 years has passed but till date the Respondent No.1 failed to rehabilitate all eligible slum dwellers and complete the subject SR Scheme.

Due to delay on the part Respondent No.1 in implementation of subject SR Scheme the Applicant society through letter dated 25.03.2022 requested for termination of appointment of Respondent No.1 as Developer. So the notice was issued to Respondent No.1 to show cause as to why the action u/s 13(2) of Maharashtra Slum Areas (I, C & R) Act, 1971 should not be taken. The matter is heard on 31.05.2022. On said day Mr. Yusuf Khan and Shamsheer Khan remain present on behalf of Applicant society alongwith Advocate Shri. Ajay Satalkar. Respondent No.1 remain present. Parties are heard at length and matter was closed for order.

ARGUMENT OF APPLICANT SOCIETY

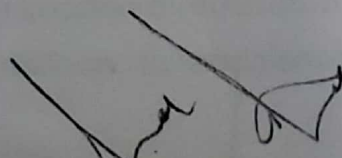
According to Applicant they have appointed Respondent No.1 as developer by executing Development Agreement and Irrevocable Power of Attorney for redevelopment of land bearing CTS No.F/1533, admeasuring 710.70 sq. mtrs. It is further version of Applicant society that the Respondent No.1 has acquired the development rights in respect of said land from original owners through registered Development Agreement dated 21.09.2006. The original owners have also executed registered irrevocable Power of Attorney dated 22.09.2006 in favour of Respondent No.1.

It is the case of the Applicant Society that the Respondent No.1 has partly completed the rehab building in the year 2006 and failed to complete the same till date. Due to nonpayment of rent on the part of Respondent No.1, the members of Applicant society occupied the

tenements in said incomplete rehab building. There is delay on the part of Respondent No.1 for more than 18 years to complete the subject SR Scheme. Therefore, the Applicant society through General Body Meeting dated 24.03.2022 terminated the appointment of Respondent No.1 as developer and appointed M/s. Shiv Sai Developer as new developer and Mr. Sachin Jadhav of M/s. Ken Assist as new Architect for completing further development of the subject SR Scheme. On these grounds the Applicant society has requested to terminate the appointment of Respondent No.1 as developer from the subject SR Scheme. The Applicant society further prayed to appoint M/s. Shiv Sai Developer as new developer and grant further permission to them.

ARGUMENT OF RESPONDENT NO.1

According to Respondent No.1 the Applicant society appointed them as developer for redevelopment of land bearing CTS No.F/1533, adm. 710.70 sq. mtrs. The Respondent No.1 further stated that the original owners have executed registered Development Agreement and irrevocable Power of Attorney in their favour for redevelopment of land bearing CTS No.F/1533 of Village Bandra. The proposal of subject SR Scheme is submitted to Slum Rehabilitation Authority and the Slum Rehabilitation Authority has issued various permissions to them. It is further version of Respondent No.1 that due to nonpayment of rent and nonperformance on their part, the Applicant society has terminated the appointment of Respondent No.1 as developer and appointed M/s. Shiv Sai Developer as their new Developer and Mr. Sachin Jadhav of M/s. Ken Assist as new Architect. It is further version that they have no objection for appointment of new developer and architect in the subject SR Scheme. The Respondent No.1 has also submitted Affidavit cum Undertaking of its one of the Director Mr. Paresh Chabhadia dated 25.05.2022 stating that they have no objection for removal of their appointment from the subject SR Scheme.


CEO / 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

In the present case the facts and circumstances are of peculiar nature. The slum dwellers residing on plot of land bearing CTS No.F/1533 of Village Bandra, F.P. No.578 of TPS III of Bandra at 5th Road, Khar (West) formed Applicant society and appointed Respondent No.1 as developer to implement the SR Scheme on land in its occupation. The proposal of the SR Scheme of Applicant is submitted to Slum Rehabilitation Authority and it was duly accepted on 26.07.2004. Thereafter the SR Scheme of Applicant society clubbed with approved SR Scheme of Nikhar SRA CHS on plot bearing F.P. No. 663 of TPS III, CTS No. E-128 of Village Bandra. The Respondent No.1 has obtained Revised Letter of Intent, Intimation of Approval and Commencement Certificate to the subject SR Scheme.

There is copy of report of Executive Engineer (H/W Ward)/SRA dated 08.06.2022. In said report it is mentioned that, in SR Scheme of Sarvodaya SRA CHS, there are total 42 eligible slum dwellers and the Respondent No.1 has proposed to shift all the 12 rehab tenements alongwith 15 PAP tenements in the sanctioned SR Scheme of Nikhar SRA CHS to the site of SR Scheme of Sarvodaya SRA CHS. Further the sale component from the SR Scheme of Sarvodaya SRA CHS is also shifted to the site of Nikhar SRA CHS

From the factsheet as well as report of engineering department it appears that lastly the further Commencement Certificate was issued on 01.07.2010 to the subject SR Scheme. Thereafter the Respondent No.1 has not taken any steps to obtain Occupation Certificate to the rehab building in the subject SR Scheme. Thus the SR Scheme of Applicant society is still incomplete. Since the year 2010 there is absolutely no

CENT SRA

progress in subject SR Scheme. This is the case of total nonperformance on the part of Respondent No.1. The Applicant society through its General Body Meeting dated 24.03.2022 resolved to terminate the appointment of Respondent No.1. Further through said resolution the Applicant society resolved to appoint M/s. Shiv Sai Developer as new developer. The Applicant society applied not only for removal but also for appointment of new developer.

It is statutory obligation of this Authority to see that the Schemes are completed within reasonable period and eligible slum dwellers are duly rehabilitated. In the event of failure of developer to discharge his obligation, the Slum Rehabilitation Authority is duty bound to take necessary action as observed by Hon'ble High Court in Appeal form Order No.1019 of 2010 M/s. Ravi Ashish Land Developers V/s. Prakash Kamble & Anr. The relevant observations of the 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."

It is worth to note that the Respondent No.1 had submitted no objection through Affidavit cum Undertaking dated 25.05.2022 during

the hearing held on 31.05.2022. In the said Affidavit cum Undertaking they have accepted their removal as developer of the subject SR Scheme. In view of own admission of Respondent No.1 regarding their nonperformance, this Authority is of the view that it is necessary to terminate the Respondent No.1 as developer of subject SR Scheme. Accordingly this Authority proceeds further to pass following order;

ORDER

1. The Respondent No.1 i.e. M/s. Gurunank Developer (I) Pvt. Ltd. is hereby terminated as developer of subject SR Scheme i.e. SR Scheme on land CTS No.F/1533 of Village Bandra, F.P. No.578 of TPS III of Bandra at 5th Road, Khar (West) for "Sarvodaya SRA CHS Ltd." clubbed with approved Slum Rehabilitation Scheme of "Nikhar SRA CHS Ltd." on plot bearing F.P. No.663 of TPS III, CTS No.E-128 of Village Bandra.
2. The Applicant society i.e. Sarvodaya SRA CHS as well as Nikhar SRA CHS are at liberty to appoint new developer of their choice in accordance with rules, regulations and policy of Slum Rehabilitation Authority.
3. The Executive Engineer/SRA is directed to appoint Government Approved Valuer to determine the actual expenses incurred by Respondent No.1 in subject SR Scheme till date.
4. The newly appointed developer to reimburse the amount so determined by Government Approved Valuer in respect of subject SR Scheme.

Place:- Mumbai

Date:- 15 JUN 2022

Chief Executive Officer
Slum Rehabilitation Authority

No. SRA/CEO Order/Sarvodaya SRA CHS/29 /2022

Date: 15 JUN 2022

Copy to:

- ✓ 1. Sarvodaya SRA CHS Ltd.
CTS No. F/1533, Plot No. 578,
5th Road, Old Khar (W), Mumbai - 400 052.
2. M/s. Gurunank Developer (I) Pvt. Ltd.
901, Sapphire, S.V. Road,
1st Road Corner, Khar (W)
Mumbai - 400052
3. M/s. DoI Architects
Gr. Floor, Sharda Sangeet
Vidyalaya Building, Kala Nagar,
Bandra (E), Mumbai-400051
4. Dy. Chief Engineer/SRA
5. Executive Engineer (H/W Ward)/SRA
6. Tahasildar-1/SRA
7. Financial Controller/SRA
8. Joint Registrar (W.S.)/SRA
9. Information Technology Officer/SRA
10. Chief Legal Consultant/SRA