

**West Bengal Real Estate Regulatory Authority**  
**Calcutta Greens Commercial Complex (1<sup>st</sup> Floor)**  
**1050/2, Survey Park, Kolkata – 700 075.**

Complaint No.WBRERA/COM 000138 & COM 000111 (erstwhile WBHIRA)

Tapas Banerjee .....Complainant

Vs.

Sukdeb Koley..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
1 ----- 18.07.2023	<p>Complainant is present in the online hearing filing hazira through email.</p> <p>Respondent is absent in the online hearing despite due service of hearing notice through speed post and also by email.</p> <p>Let the track record of due service of hearing notice to the Respondent be kept on record.</p> <p>Heard the Complainant in detail.</p> <p>At the time of hearing, it came to the notice of the Authority that on selfsame matter a Complaint Petition has already been filed by the Complainant before the erstwhile WBHIRA Authority bearing no. COM 000111 and the said Complaint Petition has been heard and disposed of by the erstwhile WBHIRA by final order dated 16.01.2020. Thereafter execution application was filed by the Complainant before the erstwhile WBHIRA for non compliance of the final order dated 16.01.2020 by the Respondent. The matter was heard by erstwhile WBHIRA in execution proceeding before it and order dated 08.09.2020, 01.12.2020, 06.01.2021 and 28.01.2021 was passed by erstwhile WBHIRA Authority in execution proceeding.</p> <p>Later on by an order dated 4<sup>th</sup> May 2021, Hon'ble Supreme Court has struck down the erstwhile WBHIRA Authority.</p> <p>It should be mentioned here that by the Order of the Hon'ble</p>	

Supreme Court dated 12.05.2023 in the Case No. Special Leave to Appeal (C) No(s). 16908/2022 in the matter of Saptaparna Ray Vs. District Magistrate North 24 Parganas & Ors., the Apex Court has been pleased to direct-

*“This Court observed that the “striking down of WB-HIRA will not affect the registrations, sanctions and permissions previously granted under the legislation prior to the date of this judgment”. This principle shall also apply to orders which were passed whether in original or in the course of execution prior to the date of the judgment. All such orders shall be executed in accordance with law, as if they were issued under the RERA.*

*Moreover, we clarify that all complaints which were filed before the erstwhile authority constituted under WB-HIRA shall stand transferred to and be disposed of in accordance with law by the authority which is constituted under the Central Act. Any person aggrieved by an order passed under WB-HIRA will be at liberty to pursue the corresponding remedy which is available under the RERA.”*

Therefore the execution proceeding pending before the erstwhile WBHIRA Authority stand transferred before the WBRERA Authority by operation of the order of Hon’ble Supreme Court dated 12.05.2023, as mentioned above. This Authority shall now proceed with the Execution hearing of the Complaint Case No. COM 000111.

The Complaint case bearing no. WBRERA/COM 000138 filed by the Complainant before the WBRERA Authority is hereby closed and dismissed by this Authority as COM 000111 had been filed on the selfsame matter against the same Respondent and with the same cause of action and it is pending before this Authority in execution proceeding.

At the time of hearing today, it has also come to the knowledge of this Authority that the Respondent had filed an Appeal bearing no. HIAT/Appeal-002/2021 before the erstwhile West Bengal Housing Industry Appellate Tribunal (WBHIAT). By operation of the Order of the Hon’ble Supreme Court dated 12.05.2023, as mentioned above, the said Appeal stand

transferred and it is now pending before the West Bengal Real Estate Appellate Tribunal (WBREAT). But it is not clear to this Authority on which ground the said Appeal was filed by the Respondent as the Orders passed in the said Appeal and present status of this Appeal matter is not readily available to this Authority.

After hearing the Complainant, the Authority is pleased to direct the following :-

- (a) Secretary WBREAT is hereby requested to send the copy of all the orders passed by erstwhile WBHIAT and WBREAT in Appeal no. HIAT/Appeal – 002/2021;
- (b) Complainant is hereby directed to submit a Notarized Affidavit stating all the development which have occurred after the order of this Authority dated 28.01.2021, annexing therewith self attested photocopy of relevant documents and send the original Affidavit to the Authority serving a copy of the same to the Respondent within 15 days from the date of receipt of this order by email.

Fix **12.09.2023** for further hearing and order in this execution proceeding. On that date hearing shall be held physically in the office of the WBRERA Authority.



(SANDIPAN MUKHERJEE)

Chairperson

West Bengal Real Estate Regulatory Authority



(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority