

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

Complaint No.COM 000198 (erstwhile WBHIRA)

Dinesh Chandra Agarwal ..... Complainant

Vs

Tapajyoti Khan..... Respondent no.1

Dilip Saha.....Respondent no.2

Samir Kumar Dey..... Respondent no.3

Rita Dey..... Respondent no.4

Suranjana Dey..... Respondent no.5

Sanjoy Kumar Dey..... Respondent no.6

Seema Kundu..... Respondent no.7

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
03 09.11.2023	<p>This Authority received application for substitution in respect of some of the erstwhile Respondents, since deceased, which were allowed in the last order dated 27.07.2023. Now Shri Tapajyoti Khan be designated as Respondent No. 1 in place of Mahamaya Khan, since deceased, the erstwhile Respondent No.1.</p> <p>Shri Dilip Saha and Shri Samir Kumar Dey shall be designated as Respondent Nos. 2 and 3 respectively in future as before.</p> <p>Sanjit Kumar Dey, erstwhile Respondent no.4 has been substituted by his widow Smt. Rita Dey and daughter Miss. Suranjana Dey. They shall be henceforth designated as Respondents Nos. 4 and 5 respectively.</p> <p>Shri Sanjoy Kumar Dey and Smt. Seema Kundu, erstwhile Respondent nos. 5 and 6 respectively be re-designated as Respondent Nos. 6 and 7 respectively.</p>	

Complainant is present in the physical hearing today and signed the Attendance Sheet.

Ld. Advocate Mr. Abhishek Shaw is present in the physical hearing today on behalf of Respondent no.3 Shri Samir Kumar Dey, filing vakalatnama and signed the Attendance Sheet.

Respondent no.7 Smt. Seema Kundu is present along with her Ld. Advocate Smt. Gouri Biswas in the physical hearing today and signed the Attendance Sheet. Ld. Advocate Smt. Biswas submitted Vakalatnama. These be kept on Record.

Other Respondents are absent despite due service of Notices for hearing through speed post and also by email.

Let Postal track records of due service of Notices for hearing to other Respondents be kept on Record.

The Complainant submitted Affidavit of Service on Notarized Affidavit affirmed on 02.11.2023, as per direction (c) of the last Order of the Authority dated 27.07.2023, which has been received by this Authority on 06.11.2023.

Let the said Affidavit of Service affirmed by the Complainant be taken on Record.

The Respondent no.7 Smt. Seema Kundu submitted today at the time of hearing a Written Response on Notarized Affidavit affirmed on 08.11.2023 to the Complaint Petition, as per direction (e) of the last Order of the Authority dated 27.07.2023, and served copy of the same to the Complainant.

Let the said Written Response of the Respondent no.7 Smt. Seema Kundu be taken on Record.

Heard all the parties in details.

Ld. Advocate of the Respondent no.3 (Samir Kumar Dey) submitted that his client had submitted a petition on 17.02.2020, before the erstwhile WBHIRA, praying for expunging the name of Respondent No.3 from the Cause Title of the present Complaint Petition and prayed for hearing of this petition first by this Authority. The Ld. Advocate for the Respondent No.3 (Shri Samir Kumar Dey) verbally submitted that one Flat is ready but despite several requests to the

Complainant for taking possession of the Flat, he has not accepted the same.

Respondent No.7 (Smt. Seema Kundu) submitted that her name should be expunged from this Complaint Petition as she is in no way connected in this matter. Smt. Seema Kundu and her Ld. Advocate further Verbally submitted before this Authority that one Flat is ready for taking Possession by the Complainant, which the Complainant has not been accepting .

On the other hand the Complainant categorically denies and opposes the contentions of the appearing Respondents. He submitted that he is ready to accept Flat in terms of the Agreement, subject to handing over of all required legal documents including demarcated Building Plan duly Sanctioned by the Kolkata Municipal Corporation and the Completion Certificate and Occupancy Certificate issued by the Corporation. He further submitted that names of the Respondents no 3 and 7 cannot be expunged for the ends of justice.

The Complainant prayed for submission of some more documents on Affidavit to assist the Authority for proper adjudication of this matter and prayed for the necessary permission in this regard from the Authority.

After hearing all the parties, the Authority is hereby pleased to give the following directions:-

- a) Let a photocopy of the petition submitted by Shri Samir Kumar Dey and Sanjit Kumar Dey, since deceased, dated 17.02.2020 be given to the Ld. Advocate of Respondent no. 3 Samir Kumar Dey, on receipt, today immediately after the hearing from the records of this matter, from the office of WBRERA; and
- b) Respondent no. 3 Samir Kumar Dey shall submit the Petition dated 17.02.2020 on Notarized Affidavit before the Authority, serving copy of the same to the Complainant and other Respondents, within 15 days from the date of receipt of this order of the Authority through email; and
- c) Respondent No .3 Shri Samir Kumar Dey and Respondent No. 7 Smt. Seema Kundu are hereby

directed to produce said offer letters for taking possession of the Flat to the Complainant on Notarized Affidavit/s before this Authority as well as to the Complainant that the Flat to be conveyed to the Complainant is complete in all respect with all required specifications and legal documents issued from the Kolkata Municipal Corporation and other Governmental Authorities as may be required including Completion Certificate, Occupancy Certificate and demarcated Sanction Building Plan and send the Original Affidavit/s to the Authority serving a copy of the same to the Complainant and other Respondents, both in hard and Soft Copies, within 15 days from the receipt of this Order through email or by Speed Post also.

- d) The Respondents who have not yet submitted Written Response shall submit his / her Written Response to the Complaint Petition and Affidavit of the Complainant on a Notarized Affidavit, annexing therewith supporting documents, if any, duly Notarized by Notary Public and send the original Affidavit to the Authority serving a copy of the same to the Complainant and other Respondents, both in hard and soft copies, within 15 (fifteen) days from the date of receipt of this Order of the Authority through email; and
- f) All the Respondents are hereby directed to produce on Notarized Affidavit before this Authority as well as to the Complainant that the Flat to be conveyed to the Complainant is complete in all respects with all specifications and required legal documents issued from the Kolkata Municipal Corporation and other Governmental Authorities as may be required including Completion Certificate, Occupancy Certificate and demarcated Sanction Building Plan as may be applicable, within 15 days from the date of receipt of this Order by email; and
- g) Complainant shall submit a Rejoinder / Reply on Notarized Affidavit against the Affidavit/s, if any, filled by the Respondents and send the Affidavit (in Original) to the Authority serving copies of the same to all the Respondents, both in hard and soft copies, within 15 (Fifteen) days from the date of

receipt of the Affidavit/s of the Respondents through Speed Post or by email whichever is earlier; and

h) It is made clear that No further time or opportunity shall be given to any of the parties for submission of Written Response for the ends of justice for the speedy disposal of this matter.

i) Respondents are further directed to remain present positively on the next date of hearing before the Authority, failing which the Authority shall have no other option but to proceed for ex-parte hearing and disposal of this matter for the ends of speedy disposal of justice, as per the provision of section 29(4) of Real Estate (Regulation and Development) Act, 2016.

Fix 28.02.2024 for further hearing and Order.



(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