

WEST BENGAL REAL ESTATE REGULATORY AUTHORITY

Calcutta Greens Commercial Complex (1st Floor)

1050/2, Survey Park, Kolkata – 700 075

WBRERA/COM(PHYSICAL)000001

Name of the Petitioner/Complainant : Kamal Sardar

Name of the Promoter/Respondent : M/s. Devaloke Developers Limited

Name of the Project : Devaloke Sonar City

Registration No. : HIRA/P/SOU/2018/000305

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
3 ----- 16.12.2022	<p>The Petitioner was present alongwith his advocate Mr. Ashok Kumar Singh and signed the Attendance Sheet.</p> <p>The Respondent was also present alongwith his advocate Mr. Rudradeb Chaudhuri and signed the Attendance Sheet.</p> <p>Heard both the parties in detail and duly considered the documents submitted by both the parties in support of their respective claims and submissions.</p> <p>The petitioner had filed two complaint Petitions dated 4th July,2022 and 5th July,2022 with the office of West Bengal Real Estate Regulatory Authority (hereinafter referred to as WBRERA), with the prayer to cancel the Registration of the Project named 'Devaloke Sonar City' which had been registered by the then West Bengal Housing Industry Regulatory Authority (hereinafter referred to as WBHIRA).</p> <p>As the Chairperson and the Members of WBRERA Authority had not been appointed in July 2022, immediate action could not be taken on the said two Complaint Petitions. Subsequently, the petitioner</p>	

approached the Hon'ble High Court at Calcutta praying ,inter alia, cancellation of the registration of the Project titled Devaloke Sonar City, in W.P.A. No.18835 of 2022 and 18837 of 2022.

On 21st October Chairman and one Member of the Authority took charge and on 9th November,2022 ,on the first date of hearing, both the parties of the two Complaint petitions were duly heard and directed by this Authority to submit their written submissions on notarized Affidavit with a copy to the opposite party.

The Hon'ble High Court at Calcutta, in its Judgment dated 16.11.2022,in W.P.A No. 18835 and 18837 of 2022, directed WBRERA to dispose of the matter within a period of four weeks from end of November 2022.

The Hon'ble Supreme Court of India, in its verdict in Civil Original Jurisdiction in Writ Petition (c) No. 116 of 2019 in the matter of Forum for People's Collective Efforts (FPCE) & Anr. -Versus- The State of West Bengal & Anr. has been pleased to order that,- "Since its enforcement in the State of West Bengal, the WB HIRA would have been applied to building projects and implemented by the authorities constituted under the law in the state. In order to avoid uncertainty and disruption in respect of actions taken in the past, recourse to the jurisdiction of this Court under article 142 is necessary. Hence, in exercise of the jurisdiction under Article 142, we direct that 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." Accordingly, the registration of this project has been saved by the above mentioned order of the Hon'ble Supreme Court and is being heard by this Authority.

The Allegations made by the Petitioner in his two Complaint Petitions dated 4th July and 5th July of 2022 is that the Respondent had encroached upon two plots of land, namely plots bearing C.S Dag No - 434 and 438 of Mouja-Jagannathpur, P.S-Narendrapur,

District-South 24 Pargana, which, as claimed by the petitioner, belongs to him and that the Respondent party is utilizing these plots for building a multistoried housing complex without getting any permission/no objection from the Petitioner.

The Petitioner has prayed for the following in his complaint Petitions dated 4th July and 5th July of 2022:-

1. Stoppage of construction work carrying on by Devaloke Developers limited;
- and 2. Cancellation of the Registration of the Project.

The petitioner, in his written submission on notarized affidavit , stated, inter alia, that two petitions had been submitted to the Hon'ble High court at Calcutta, being W.P.A No. 18692 and 18694 of 2022, praying for stopping WBSEDCL from supplying electricity to the above noted project site on the ground that the plots bearing C.S Dag number- 434 and 438 have been encroached upon by the Respondent M/S Devaloke Developers Limited and that the Respondent has no title on the plots of land mentioned hereinabove.

Respondent M/S Devaloke Developers Limited has relied upon the said Order of the Hon'ble High Court at Calcutta, as mentioned above, in his Written Response to the Complaint Petitions.

Since the same parties are involved in the in the instant two Complaint Petitions and the Writ Petition No. W.P.A. No. 18692 and 18694 of 2022, involving the same two plots of land bearing C.S Dag No-434 and 438 , and since both the parties have annexed and submitted the same Order of the Hon'ble High Court as necessary document to prove their respective claims or objections, as the case may be, in W.P.A. No. 18835 and 18837 of 2022, the orders of the Hon'ble High Court in W.P.A No. 18692 and W.P.A No. 18694 are important and relevant materials on record for the instant case.

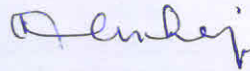
Having heard both the parties and upon careful consideration of the documents submitted before it on oath and as observed by the Hon'ble High Court in its Judgment in W.P.A. No. 18962 of 2022 and W.P.A. No. 18964 of 2022, it transpires to this Authority that the Petitioner could not establish his right , title or interest in the properties in question in respect of C.S Dag No. 434 and 438. In as much as the documents annexed to the Written Response of the Respondent is concerned, it is evident that the property in question were sold in a demarcated manner in respect of C.S Dag No.-434 and 438, pursuant to an Memorandum of Understanding (MOU) where the Petitioner himself was an Agent (Broker).

Further, the documents submitted by the Respondent substantiates mutation of demarcated plots, in respect of C.S Dag No-434 and 438,in favour of the Respondent, which has attained finality, since subsequent mutation and permission to conversion have been obtained by the Respondent, without any objection ,at any stage, from the petitioner.

This Authority, in light of the materials on record, as well as the in the light of the observations of the Hon'ble High Court at Calcutta in W.P.A. No. 18962 of 2022 and W.P.A. No. 18964 of 2022, as mentioned above, does not find any ground for cancellation/revocation of the Registration of the project named '**Devaloke Sonar City**' under section 7 of the Real Estate (Regulation and Development) Act,2016.

However, findings arrived at herein above, ought not to bind or influence the civil court , wherein title suits/partition suits etc. are pending in relation to the plots of lands in respect of C.S Dag No-434 and 438, in any manner.

With the above observations the matter is hereby disposed of.



(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