

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

Complaint No. WBRERA/COM(PHYSICAL)000040

Bharati Das.....Complainant

Vs

Maa Batai Construction & Sushil Kumar Sharma.....Respondents

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
<u>02(Execution)</u> 06.02.2024	<p>Today is 2nd day of Execution Hearing of this matter. The final order of this matter was passed on 12.06.2023 by this Authority.</p> <p>Complainant is present in the online hearing today.</p> <p>Advocate Debasis Chattopadhyay is present on behalf of the Respondent in the online hearing filing hazira and vakalatnama through email.</p> <p>Heard both the parties in detail.</p> <p>Complainant submitted today at the time of hearing that she has received till date total amount of Rs.12,19,583/- containing the Principal Amount (Rs.11,00,000/-) alongwith interest at the rate of 2% per annum (Rs.1,19,583/-) but no amount has been refunded by the Respondent till today after the last order of the Authority dated 13.10.2023 in execution hearing, wherein Respondent was directed to pay the balance amount of interest as per the final order of the Authority dated 12.06.2023 within 90 days from the date of receipt of the order through email. She prayed for immediate full Execution of the final order dated 12.06.2023, as per the provisions of Real Estate (Regulation & Development) Act, 2016 and Rules made there under.</p> <p>The Advocate of the Respondent stated at the time of hearing that they have filed an Appeal just today before the Hon'ble Real Estate Appellate Tribunal. No hearing has been held and the Appeal has not yet been admitted and no stay order has been passed till date.</p> <p>The Complainant has been apprised at the time of hearing that the order dated 12.06.2023 may be executed by the provision of Rule</p>	

25 of the Real Estate (Regulation & Development) Rules, 2021 by sending it to the concerned District Magistrate in whose jurisdiction the subject matter property is situated for recovery of the amount due as per the provisions of Bengal Public Demands Recovery Act, 1913.

The Complainant has given consent for sending this matter for execution to the District Magistrate of the concerned District in whose jurisdiction the said property is situated, as per the provisions contained in section 40 of the Real Estate (Regulation & Development) Act, 2016 read with rule 25 of the West Bengal Real Estate (Regulation & Development) Rules, 2021.

The Authority is of the considered view that the Respondent has filed the Appeal just today to avoid the execution of this matter but the said Appeal has not yet been admitted by the Hon'ble WBREAT and no order / stay order has been passed till date, therefore, this Authority can proceed with Execution Hearing of this matter and there is no legal impediment in this regard.

Hence, this Authority is hereby pleased to send this matter for execution to the **District Magistrate of Howrah** to execute this order as per section 40 of the Real Estate (Regulation & Development) Act, 2016 read with rule 25 of the West Bengal Real Estate (Regulation & Development) Rules, 2021. As per rule 25 of the West Bengal Real Estate (Regulation & Development) Rules, 2021, the amounts due shall be recovered by the concerned District Magistrate as arrears of land revenue and shall be recovered in the manner as provided in the Bengal Public Demand Recovery Act, 1913 (Bengal Act 3 of 1913).

The Secretary, West Bengal Real Estate Regulatory Authority (WBREERA), is hereby directed to send certified copies of this execution order alongwith final order dated 12.06.2023 alongwith copy of the Complaint Petition to the District Magistrate of Howrah, within **15 (Fifteen) days** from today, requesting him to initiate a Certificate Case under the Bengal Public Demand Recovery Act, 1913, as per this order of the Authority,

The District Magistrate Howrah, is hereby directed to execute the order dated 12.06.2023 in WBREERA/COM000040 passed by this Authority, as per the provisions contained in rule 25 of the West Bengal Real Estate (Regulation & Development) Rules, 2021, within **a month** from the date of receipt of the certified copy of the order dated 12.06.2023 and other documents from the Secretary, WBREERA and send the compliance report to this Authority within **six weeks**.

It should be mentioned here that in a similar case, the Hon'ble Supreme Court of India, in petition for Special Leave to Appeal (C)

No.16908/22, has been pleased to order as follows:-

“We direct, that the authority shall proceed to execute the order which has been passed in favour of petition expeditiously, within **a month** from the date of receipt of a certified copy of this order by the executing forum”.

As the present matter is similar to that of the matter heard by the Supreme Court of India, as mentioned above, therefore, the Authority directs the District Magistrate of Howrah, to take necessary action to execute this order within **a month** from the date of receipt of certified copy of this order along with other papers and documents from this Authority.

Complainant is at liberty to pursue this matter with the office of the District Magistrate, Howrah to get refund of the amount as per the order of the Authority dated 12.06.2023.

Let the copy of this order be served to both the parties by speed post and also by email immediately.

Fix this Execution Case in the list of cases in the month of May, 2024, for report and compliance.



(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