

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

Complaint No.WBRERA/COM000091

Amarnath Banerjee and others..... Complainant

Vs

Iris Construction & Ors..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
05 29.04.2024	<p>Complainant Amarnath Banerjee (Mobile – 7044893028) is present in the physical hearing and signed the Attendance Sheet.</p> <p>Advocate Nawal Kishore Chatterjee (Mobile – 7059530311, email id – nawal.chat@gmail.com) is present in the physical hearing today on behalf of the Respondent and signed the Attendance Sheet.</p> <p>Heard both the parties in detail.</p> <p>The Complainant submitted a petition dated 18.04.2024, stating that the Hon'ble West Bengal Appellate Tribunal in Appeal No. WBREAT/Appeal No. - 011/2023 in the matter of Amarnath Banerjee Vs Rajib Halder & Ors. has been pleased to direct that the subject matter of the instant Complaint bearing no. WBRERA/COM 000091 is well within the jurisdiction of the Ld. WBRERA Authority and RERA Act, 2016 and sent back the matter to this Authority for disposal of this case afresh as per provisions of RERA Act, 2016 and Rules made thereunder and in the light of the observations made in the body of the said Judgement of the Hon'ble Tribunal, the said Petition has been received by this Authority on 18.04.2024.</p> <p>Let the said Petition of the Complainant dated 18.04.2024 be taken on record.</p> <p>Respondent has submitted a Petition today before the Authority stating that they have filed a Complaint case against the Complainants herein, bearing no.WBRERA/COM 000567 and prayed for analogous hearing of both the cases.</p> <p>Let the said Petition of the Respondent submitted today be taken on record.</p> <p>Heard both the parties in detail.</p> <p>The Complaint matter bearing no. WBRERA/COM 000091 was dismissed by this Authority by an order dated 05.10.2023 on the ground that the matter is outside the purview of the provisions of the RERA Act, 2016.</p>	

Aggrieved with that order of the Authority, the Complainant filed an Appeal before the Hon'ble West Bengal Real Estate Appellate Tribunal (WBREAT). In the said Appeal bearing no. WBREAT/APPEAL No.- 011/2023 by an order dated 05.03.2024, the Hon'ble WBREAT has been pleased to order that,-

“That the instant Appeal being No. WBREAT/APPEAL No- 011/2023 be and same is allowed on contest with observation that the subject matter of the Complaint is well within the Jurisdiction of the Ld. WBRERA Authority and RERA Act, 2016 and the Impugned Order No. 4 dated 05.10.2023 passed in Complaint No. WBRERA/COM 000091 is hereby set aside and let the case be sent back on remand to the Ld. WBRERA Authority for disposal of this case afresh as per provisions of RERA Act, 2016 and WBRERA Rules and in the light of observations made in the body of the Judgement.”.

In compliance with the above mentioned order of Hon'ble WBREAT, this Authority is hereby taking the matter to hear it afresh as per the direction of Hon'ble WBREAT.

The Respondent stated at the time of hearing that he submitted a Petition that WBRERA/COM 000567 has been filed by the Respondents against the Complainants herein and he prayed for analogous hearing of these two matters because as per him it will be difficult for the Authority to adjudicate the disputes between the same parties with regard to the same properties, if the Authority hears the two cases separately.

Considered and granted the prayer of the Respondent and Authority hereby is of the considered opinion that the said two cases required to be heard analogously.

After hearing both the parties, the Authority is hereby pleased to direct the following:-

- a) Let **Smt. Sanjukta Banerjee** (wife of late Shri Dilip Banerjee), **Shri Deepnil Banerjee** (son of late Dilip Banerjee) and **Shri Debojit Banerjee** (son of late Dilip Banerjee) (Mobile no. – 77218801113) be hereby included as Joint Complainants in WBRERA/COM 000091 as they are necessary parties in the present matter, being the legal heirs of late Dilip Banerjee who is brother of Mr. Amarnath Banerjee (Complainant) and who was also a Landowner and henceforth in all the records of this matter, their names shall be included; and
- b) Let **Iris Construction** and **Mr. Naba Kumar Mondal** and **Mr. Santanu Ghatak** be included as **Respondent No. 1**, **Respondent No. 3** and **Respondent no. 4** respectively in the present matter as they are the necessary parties in this matter and for proper adjudication of this matter their inclusion as parties of this case is necessary and henceforth in all the records of this matters these inclusions shall be reflected and **Mr. Rajib Halder** shall be referred as **Respondent No. 2**.
- c) Smt. Sanjukta Banerjee (wife of late Shri Dilip Banerjee), Shri Deepnil Banerjee (son of late Dilip Banerjee) and Shri Debojit

Banerjee (son of late Dilip Banerjee) are hereby directed to submit on Notarized Affidavit their submission, if any, regarding the Complaint no.WBRERA/COM 000091 and send the Affidavit to the Authority (in original) serving a copy of the same to the Respondents, both in hard and scan copies, within **15 days** from the date of receipt of this order of the Authority through email; and

- d) Let the instant Complaint matter bearing no. WBRERA/COM 000091 and WBRERA/COM 000567 be heard analogously to properly adjudicate the dispute between the same parties with regard to the same properties; and
- e) The Respondent herein, are directed to submit a Notarized Affidavit, containing their full submission regarding the complaint WBRERA/COM000567, annexing therewith Notary/Self Attested copy of supporting documents, if any, and send the Affidavit (in original) to the Authority serving a copy of the same to the Complainants herein, both in hard and scan copies, within **15 days** from the date of receipt of this order of the Authority through email; and
- f) The Complainants herein, are hereby directed to submit a Written Response on Notarized Affidavit to the Complaint Petition No. WBRERA/COM 000567 and Affidavit thereto, annexing therewith Notary/Self Attested copy of supporting documents, if any, and send the Affidavit (in original) to the Authority serving a copy of the same to the Respondents herein, both in hard and scan copies, within **15 days** from the date of receipt of the Affidavit of the Respondents herein, as directed at (d) above by post or by email, whichever is earlier.

Fix **13.08.2024** 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