

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

Complaint No.WBRERA/COM000741

Debdutta Chatterjee. Complainant

Vs

M.S.Enterprise..... Respondent

| Sl. Number and date of order | Order and signature of the Authority | Note of action taken on order |
|------------------------------|--|-------------------------------|
| 03 07.01.2025 | <p>Advocate Mr. Himangshu Ghosh (Mob. No. 9903499926 & email Id:- advhimangshughosh@gmail.com) and Advocate Mr. Aditya Chakraborty (Mob. No. 9051205755) are present on behalf of the Complainant in the physical hearing filing vakalatnama and signed the Attendance Sheet.</p> <p>Advocate Smt. Anwasha Mishra (Mob. No. 8697101352 & email Id: mishra36anwasha@gmail.com) is present in the physical hearing on behalf of the Respondent filing vakalatnama and signed the Attendance Sheet.</p> <p>Advocate of the Respondent sent email communications on 02.01.2025 and 05.01.2025 and prayed for adjournment of 3 weeks on his personal ground / inconvenience.</p> <p>Let the said email communications dated 02.01.2025 and 05.01.2025 be taken on record.</p> <p>The Respondent submitted Notarized Affidavit, containing their Written Response, dated 02.01.2025, which has been received through email by this Authority on 02.01.2025.</p> <p>Let the said Affidavit of the Respondent be taken on record.</p> <p>Heard both the parties in detail.</p> <p>At the time of hearing, the Advocate of the Respondent Smt. Anwasha Mishra again prayed for adjournment on the personal ground of Advocate of the Respondent Mr. Avijit Gope.</p> <p>Considered and rejected the prayer of the Advocate of the Respondent as the reason cited by her is not a sufficient and cogent reason, as per the opinion of this Authority, for adjournment of hearing of this matter for 3 weeks as this Authority is under the obligation of expeditious hearing and disposal of the</p> | |

matters before it within 60 days, as per section 29(4) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter after referred to as the 'RERA Act') and also on the ground that this Authority specifically directed in the last order dated 10.12.2024 that if the Respondent fails to submit Affidavit and remain absent on the next date of hearing then ex-parte hearing shall be held on the next date.

Under the abovementioned circumstances, if the matter is adjourned for 3 weeks again then as per this Authority the injustice shall be done with the Complainant because justice delayed is justice denied.

Advocate of the Respondent also prayed for submission of a petition challenging the maintainability of this Authority in the present matter.

Considered and rejected the prayer of the Respondent as the maintainability ground should be taken on the date of first hearing or admission hearing. Already the time for challenging the maintainability has been expired.

Let the Maintainability Petition of the Respondent be rejected and not to be taken into the record of this matter.

The Advocate of the Respondent stated that a case is pending before the consumer forum in this regard so this case should not be entertained / admitted.

Considered and rejected the prayer of the Respondent on the ground that as per section **88 of the RERA Act, 2016**, the provisions of RERA Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force and as per section **89 of the RERA Act, 2016**, the provisions of RERA Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Advocate of the Complainant prayed for the interim order for immediate handover of 3 flats of the allocation of the Complainant as per the original Development Agreement dated 14.10.2015 and Development Power of Attorney dated 15.02.2017.

The Authority is of the considered opinion that the interim order prayed by the Complainant should be granted on the ground that he is suffering for a long period by not getting his allocation as per the Development Agreement dated 14.10.2015 and Development Power of Attorney dated 15.02.2017.

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

- a) The **Respondent M.S. Enterprise** shall deliver to the Complainant the **3 flats** of the allocation of the Complainant, as per the Development Agreement dated 14.10.2015 and Development Power of Attorney dated 15.02.2017, within **15 days** from the date of receipt of this order of the Authority through email; and
- b) The Respondent shall submit **hard copy** of his Notarized Affidavit (in original) to the Authority, serving a copy of the same to the Complainant, within **7 days** from the date of receipt of this Authority through email.
- c) The Complainant is directed to submit a **Rejoinder** on Notarized Affidavit giving point-wise concise Reply to the Written Response of the Respondent, both in hard and scan copies, within **15 days** from the date of receipt of the hard copy of the Affidavit of the Respondent.

Fix **13.03.2025** for further hearing and order.


(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority


(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority