

West Bengal Real Estate Regulatory Authority
Calcutta Greens Commercial Complex (1st 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

Sima Dey..... Respondent no.3A

Sourav Dey..... Respondent no.3B

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
Execution (01) 06.05.2025	Today is the 1st day of the Execution Hearing of the matter. The Complainant prayed for execution of the final order of this Authority dated 19.03.2024. The Respondent no.2 submitted before the Authority for Review of the final order dated 19.03.2024 which has been dismissed by this Authority vide order dated 26.09.2024. Hence the Execution Petition stands. Complainant Mr. Dinesh Chandra Agarwal is present alongwith his Advocate physically before this Authority. Advocate Mr. Subhro Kanti Roy Chowdhury is present on behalf of the Respondent no.2 in the hearing through online mode filing hazira and vakalatnama through email. All other Respondents are absent in the hearing despite due service of hearing notice through email.	

Heard both the parties.

Complainant stated that Respondent no.1 did not comply the final order of the Authority wherein he was instructed to deliver physical peaceful and vacant possession, free from all encumbrances of the flat no.1D in the 1st floor of the premises no.35B, Khudiram Bose Sarani, P.S. -Tala, Kolkata - 700037 after executing Deed of Conveyance within 45 days from the date of the final order.

Other Respondents were also directed to remain present at the time of handing over the physical possession of the said flat and to handover authenticated copy of all documents to the Complainant after possession of the flat.

Advocate of the Respondent no.2 stated that the handover was not made as the said flat is occupied by some other person.

As the final order has already been passed by this Authority for handing over the flat from the allocation of the Respondent no.1 and the Review Petition of the Respondent no.2 has been dismissed on previous occasion this Authority will proceed with Execution of the final order dated 19.03.2024.

As the Respondent did not comply the order within the period of 45 days as directed in the final order of the Authority dated 19.03.2024 and Review Petition filed before the Authority has been dismissed, therefore, this Authority has no other option but to send this matter for execution as per Rule 26 of the West Bengal Real Estate (Regulation & Development) Rules, 2021 and this Authority is hereby pleased to send this matter for execution to the Principal Civil Court, i.e. City Civil Court Kolkata, 2&3 K.S. Roy Road, Kolkata - 700001 to execute it as a decree of the Civil Court in a suit before it and the provisions of Order XXI of the First Schedule to the court of civil procedure, 1908 shall as per as may be, applicable, as per the provisions of section 40 of the Real Estate (Regulation & Development) Act, 2016 read with rule 26 of the West Bengal Real Estate (Regulation & Development) Rules, 2021.

Rule 26 of the West Bengal Real Estate (Regulation & Development) Rules, 2021 provides that,-

“26(1). Every order made by the Authority, Adjudicating Officer or Appellate Tribunal shall be enforced by it in the same manner as if it were a decree of a civil court in a suit before it and the provisions of Order XXI of the First Schedule to the Court of Civil Procedure, 1908 shall, as per as may be, applicable.

(2). Any such order shall be executed by the Principal Civil Court of the District having Jurisdiction to execute the same”.

The Secretary, West Bengal Real Estate Regulatory Authority (WBREERA), is hereby directed to send certified copies of this order of this Authority and final order dated 19.03.2024 of this Authority, alongwith copy of the Complaint Petition no. COM 000198, to the Registrar of the said court with the request to place the matter before the District Judge of City Civil Court so that the order dated 19.03.2024 in COM 000198 passed by this

Authority can be executed as per the provisions contained in rule 26 of the West Bengal Real Estate (Regulation & Development) Rules, 2021 and he is also requested to send the compliance report to this Authority as expeditiously as possible.

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, necessary steps should be taken to execute this order within a month from the date of receipt of certified copies of the orders along with other papers and documents from this Authority.

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


(BHOLANATH DAS)
Member

West Bengal Real Estate Regulatory Authority


(TAPAS MUKHOPADHYAY)
Member

West Bengal Real Estate Regulatory Authority