

## West Bengal Real Estate Regulatory Authority

Calcutta Greens Commercial Complex (1<sup>st</sup> Floor)

1050/2, Survey Park, Kolkata – 700 075.

Complaint No.WBRERA/COM-000115

Partha Sarathi Dutta .....Complainant

Vs.

Swanhousing & Infra Private Limited..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
1 ----- 30.05.2023	<p>Complainant is present in the online hearing filing hazira alongwith his advocate Devajyoti Barman and Sanjukta Basu Mallick hearing filling vakalatnama through email.</p> <p>Advocate Vedika Sureka is present on behalf of the Respondent Company in the online hearing filing hazira and Authorization through email.</p> <p>Heard both the parties in detail.</p> <p>In the present Complaint Petition, the Complainant stated that this is an application for Execution of the final judgment and order dated 24.02.2021 passed by the erstwhile WBHIRA Authority in the Complaint case no. COM-000192 as per the provisions of Rule 26 of the West Bengal Real Estate (Regulation and Development) Rules, 2021 read with section 40(2) of the Real Estate (Regulation and Development) Act, 2016 and Order XXI- Rules 10, 11(2), 32 (5), 34 and Order XLI Rule 5 and sections 36,</p>	

37(b), 42(1), 47(1), 51 of the Code of Civil Procedure, 1908.

The Complainant also stated that there is no stay order against Execution of the said final order of the erstwhile WBHIRA Authority and the Hon'ble High Court at Calcutta, while disposing Writ Petition being WPA 11802 of 2021, was pleased to direct the Complainant to initiate the Execution proceedings before the appropriate Authority.

The Complainant prayed before this Authority for accepting this present Complaint Petition as the Application for Execution of the final judgment and order dated 24.02.2021 of the erstwhile WBHIRA Authority in the Complaint case no. COM-000192.

It should be mentioned here that by the Order of the Hon'ble Supreme Court dated 12.05.2023 in the Case No. Special Leave to Appeal (C) No(s). 16908/2022 in the matter of Saptaparna Ray Vs. District Magistrate North 24 Parganas & Ors., the Apex Court has been pleased to direct-

*"This Court observed that the "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". This principle shall also apply to orders which were passed whether in original or in the course of execution prior to the date of the judgment. All such orders shall be executed in accordance with law, as if they were issued under the RERA.*

*Moreover, we clarify that all complaints which were filed before the erstwhile authority constituted under WB-HIRA shall stand transferred to and be disposed of in accordance with law by the authority which is constituted under the Central Act. Any person aggrieved by an order passed under WB-HIRA will be at liberty to pursue the corresponding remedy which is available under the RERA."*

Therefore, as per the above direction of the Hon'ble Supreme Court and after hearing both the parties, this Authority is hereby pleased to accept the present Complaint Petition as Execution Application for execution of the order dated 24.02.2021 of the erstwhile WBHIRA in COM-000192.

Let the present Complaint Petition bearing no. **WBRRERA/COM 000115** henceforth be re-numbered as **COM-000192 (Execution)** in all future records.

This Authority shall proceed with the Execution hearing of the Complaint Case No. COM-000192 (Execution).

After hearing both the parties and after taking into consideration documents on record, the Authority is pleased to direct the Respondent to complete the registration of the Deed of Conveyance of the Flat / Apartment of the Complainant, as per the directions given in point no. **(A) to (J)** in the order portion of the final order dated 24.02.2021 of the erstwhile WBHIRA in COM-000192, within **30 (thirty)** days from the date of receipt of this order of the Authority by email.

**On 21.07.2023**, this Authority shall review the compliance by the Respondent.

*sd/-*

(SANDIPAN MUKHERJEE)

Chairperson

West Bengal Real Estate Regulatory Authority

*sd/-*

(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority

*sd/-*

(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority

*certified to be true copy.*

*sd/-*

Special Law Officer

West Bengal Real Estate Regulatory Authority

*30.05.2023*