

**IN THE COURT OF ADJUDICATING OFFICER,
REAL ESTATE REGULATORY AUTHORITY (RERA)
6TH FLOOR, BIHR STATE BUILDING CONSTRUCTION CORPORATION BUILDING
HOSPITAL ROAD, SHASTRI NGAR
PTNA-800023**

1. Complaint Case No.RERA/CC/762/ AO / 200/2019 – Sri Bipin Bihari Singh, s/o Sri Birendra Praswad Singh, r/o Flat No.204, Ram Bilas Enclave, East Lohanipur, Phulwari Kadamkuan, Patna-800003. Present address: Quarter No.B-I/04, Power Grid Town Ship Karbigahiya, Patna-800001.
2. Complaint Case No.RERA/CC/763/ AO/201/2019 – Satendra Kumar, s/o Late Brijnandan Prasad, r/o Power Enclave, Flat No.202, West Patel Nagar, Near Lalbabu Market, Patna-800023.
3. Complaint Case No.RERA/CC/773/ AO/202/2019 – Rewati Kumari, d/o Late Sadan Mistri, Village+Post-Jalpura, P.S. Arwal, District-Arwal, PIN-804401.
4. Complaint Case No.RERA/CC/774/ AO/203/2019 – Sri Deepti Kumar, s/o Sri Ramesh Kumar r/o East of Gandhi Murti, Patel Nagar, Road No.0, Near Holy Promise Hospital, Patna-800001 (Bihar)
5. Complaint Case No.RERA/CC/775/ AO/204/2019 – Sri Amit Ranjan, s/o Krishnadeo Prasad Singh, r/o Vill+P.O.Kaitha, P.S.-Shambhuganj, District-Banka (Bihar), PIN-813211. At present: Kashyap Green City, H-Block, 403, Abhimanyu Nagar, Khagaul Nahar Road, Patna-801105.
6. Complaint Case No.RERA/CC/776/ AO/205/2019 – Satendra Singh, s/o Sri Balbir Singh, House No.760, New Adarsh Nagar (Near Shankar Ice Factory), Haridwar Road Roorkee, District-Haridwar (UK), PIN-247667. Present address: Power Grid Corporation of India Ltd., 765/400 KV GIS Sub-Station, Village+Post-Thathra (Near Kachhawa Road Market), Jhaua-Bihara Road, Varanasi-221313.

Complainants
(Continued)

7. Complaint Case No.RERA/CC/777/AO/206/2019 – Smt Punam Kumari, w/o Sri Virendra Kumar Chaudhary. No.36, Village-Paharpura, PO.+PS.-Biharsharif, District-Nalanda-803101 (Bihar). Present address: Quarter No.B/20, Power Grid Township, Bihbarsharif Sub-Station, Village+P.O.-Mahanandpur, PS.-Deep Nagar, District-Nalanda (Bihar), PIN-803216.
8. Complaint Case No.RERA/CC/778/AO/207/2019 – SriVijay Kumar Sharma, s/o Late Ambika Singh, r/o 175, Opposite: Second Lane, Ram Jay Pal Road, Near Ambedkar Dental College, Hari Om Nagar,Danapur-cum-Khagaul, Patna-801503 (Bihar).
9. Complaint Case No.RERA/CC/779/AO/208/2019 – Ranjit Kumar, s/o Sri R.S. Prasad, c/o Ramjaipal Path, Near Ambedkar Dental College, Bailey Road, Danapur, Patna-801503 (Bihar).
10. Complaint Case No.RERA/CC/780/AO/209/2019 – Sri Satish Kumar, s/o Late Raghunandan Ram, r/o At+P.O.-Parwalpur, District-Nalanda, PIN-803114 (Bihar). Present address: Power Enclave, Flat No.302, Professors' Colony, Lal Banu Market, North Shastri Nagar, Patna-800023.
11. Complaint Case No.RERA/CC/781/AO/210/2019 – Smt. Vinita Mondal, w/o Sri Sitansu Mandal, r/o Quarter No.B-25, Power Grid 400/220 KV Sub-Station, Tata Kandra Road, Gamharia, Village-Ramchandrapur, P.O.-Gamharia, District-Seraikela Kharswan, Jharkhand.
12. Complaint Case No.RERA/CC/782/AO/211/2019 – Sri Md. Nasim Eqbal, s/o Late Md. Illyas, c/o Flat No.301, Block-C, Akash Ganga Apartment, Ashiana-Digha Road, Rukanpura, Patna-800014 (Bihar).

Complainants
(Continued)

13. Complaint Case No.RERA/CC/783/AO/212/2019 – Sri Mani Shekhar, s/o Sri Shambhu Prasad Singh, r/o House No.170-C, Road No.4, Ashok Nagar, Ranchi, Jharkhand-834002. Present address: B-804, Narayana Greenscaps, Vemali, Vadodra, Gujrat-391740.
14. Complaint Case No.RERA/CC/784/AO/213/2019 – Sri Rajeev Ranjan, s/o Sri Kedar Nath Mishra, r/o SA-6/1-A-21 K, Flat No.107, Block-B, Raj Tower, Om Nagar Colony, Pahariya, Varanasi-221007 ... (UP)
15. Complaint Case No.RERA/CC/785/AO/214/2019 – Sri Narendra Kumar, s/o Sri Jagdish Prasad, r/o Village+P.O.-Korari, P.S.-Nagarnausha, District-Nalanda-801305 (Bihar). At present: B-1/5, Power Grid Township, Karbigahia, Jakkanpur, Patna-800001 (Bihar).
16. Complaint Case No.RERA/CC/786/AO/215/2019 – Sri Ajit Kumar, s/o Sri Chandra Chur Deo, c/o Power Grid, 400 KV Sub-Station, Dariya Kafain, Village+P.O.-Dariya Kafain, Muzaffarpur, Kurhani-844127 (Bihar). Present address: E-202, Terrace Gardenia, Ashiana Digha Road, Patna-800025.
17. Complaint Case No.RERA/CC/787/AO/216/2019 – Sri Manish Kumar, s/o Sri Vidya Nand Singh, r/o Shivpuri Colony, Jodhadih More, Near Niara Baba, P.O.+P.S-Chas, Bokaro-827013, (Jharkhand). Present address: Flat No.4071, ATS Dolce, Zeta-1, Greater Noida, U.P. PIN-201301.

Complainants
(Continued)

18. Complaint Case No.RERA/CC/789/AO/218/2019 – Sri Neeraj Kumar, s/o Chandra Chur Prasad Singh, r/o Nipania, P.O.-Barauni, P.S.-Phulwarai, Barauni, Begusarai-851112. Present address: 400/132 KV Power Grid, Lakhisarai Sub-Station, Quarter No.B 3(4), Vill-Khargwara, P.S.-P.O- Ramgarh, District-Lakhisarai-811311 (Bihar)
19. Complaint Case No.RERA/CC/790/AO/219/2019 – Ms. Sweta Singh, d/o Sri Lakshman Singh, r/o Flat No.102, Harshita Kunj Apartment, Magistrate Colony, Ashiana, Patna-800025 (Bihar). Present Address: Quarter No.2365 Guwahati Refinery Township, Sector-02, Noonmati, Guwahati-781020, Assam.

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Complainants

Versus

1. M/s Agrani Homes Pvt. Ltd.
2. Sri Alok Kumar, S/o Padum Singh, Director, Agrani Homes Pvt, Ltd., House No.15, Ward No.1FA, Patliputra Colony, Near Ruban Hospital, District-Patna, Bihar, PIN--800013.
Presently residing – Yogipur Chitra Gupta Nagar, P.S.-Patrakar Nagar, P.O.-Lohia Nagar, Kankarbagh, Patna-800020.

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Respondents

Present:

**Sri Ved Prakash
Adjudicating Officer**

Appearance:

For Complainants ... Mr. Kishore Kunal, Advocate
For Respondents ... Mr. Ankit Kumar, Advocate

ORDER

30-09-2020

In view of the fact that these 19 complaint cases relate to same project “Power Grid Nagar” of the

Promoter/Respondents and allegations are of similar nature, so a composite order is being passed in all these 19 cases.

2. These complaint cases are filed by the complainants named above against the Respondent No.1 M/s Agrani Homes Pvt. Ltd. through Respondent No.2, Sri Alok Kumar, C.M.D. of M/s Agrani Homes Pvt. Ltd. u/s 31 read with Section-71 of Real Estate (Regulation & Development) Act, 2016 (hereinafter referred to as the "Act, 2016") for refund of their advanced principal amount along with accrued interest @ 18% per annum thereon and compensation of Rs.10.00 lacs for their mental, economical and physical harassment with litigation cost of Rs.1.00 lac to each complainant, consequent upon non-delivery of their allotted flats.

3. In nutshell, the common case of the complainants is that the Respondents with ulterior motive proposed to construct approximately 300 residential flats having super built up area of 1626 sq.fts. (carpet area – 1300 sq.fts) along with one reserve car parking space to be allotted to the employees/ex-employees of Power Grid Corporation of India Ltd. as per their choice, in the name and style of

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various projects like “Power Grid Nagar”, Sarari, Danapur, “Power Grid Nagar” Varanasi and “Power Grid Nagar”, Sampatchak. Various brochures were published by the Respondents and it was assured individually and collectively that delivery of possession of flats shall be made within 3 years with grace period of 6 months and many other amenities were also promised to the consumers including the present complainants. These complainants are Employees/Ex-employees of Power Sector like Power Grid Corporation, N.T.P.C. etc. and they formed a Society in the name of “Power Grid Employees Welfare Housing Society”/Power Welfare Organization having its office at Alankar Place, P.O. Boring Road, Patna-800001, Bihar with objective to get constructed a residential complex for its members. On 19-04-2014 the Respondents and Power Grid Employees Welfare Housing Society through its Secretary, Sri Shatrughn Mishra entered into an Agreement (M.O.U.) regarding the Project “Power Grid Nagar”, situated at Sarari, P.S.-Shahpur, Danapur, Patna (Bihar) for construction of 100 residential flats with one reserve car parking space with super built up area of 1626 sq.fts. consisted in two Blocks to be

allotted to its members as per their choice. An Agreement for Sale was also executed between each member / employee and the Respondents through the C.M.D., Sri Alok Kumar. It was agreed between both the sides that each member has to purchase a flat on consideration of Rs.9.00 lacs plus applicable Service Tax. As such, as per agreement, each complainant has paid his/her instalments towards consideration amount for purchase of flat.

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4. Details of the payment of instalments made by the complainants to the Respondents may be seen through the chart as under:-

Sl. No.	Complaint Case No.	Name of the Complainant	Total Consideration of the flat Rs.	Date of Advance Payment of Instalment	Amount of Advance Payment of Instalments Rs.
(1)	(2)	(3)	(4)	(5)	(6)
1.	RERA/CC/762/2019 RERA/AO/200/2019	Sri Bipin Bihari Singh	9,00,000.00	19-04-2014 31-07-2015 Total	3,00,000.00 <u>3,21,000.00</u> 6,21,000.00
2.	RERA/CC/763/2019 RERA/AO/201/2019	Satendra Kumar	9,00,000.00	30-04-2014 10-05-2015 15-12-2015 Total	3,00,000.00 3,18,540.00 <u>2,10,500.00</u> 8,29,040.00
3.	RERA/CC/773/2019 RERA/AO/202/2019	Smt. Rewati Kumari	9,00,000.00	29-04-2014 17-04-2015 Total	3,00,000.00 <u>6,27,810.00</u> 9,27,810.00
4.	RERA/CC/774/2019 RERA/AO/203/2019	Sri Deepti Kumar	9,00,000.00	25-04-2014 31-05-2015 12-10-2015 Total	3,00,000.00 3,18,540.00 <u>3,10,500.00</u> 9,29,040.00
5.	RERA/CC/775/2019 RERA/AO/204/2019	Sri Amit Ranjan	9,00,000.00	30-04-2014 31-05-2015 19-10-2015 04-02-2016 [Cash] Total	3,00,000.00 3,00,000.00 3,27,810.00 1,259.00 <u>9,29,069.00</u>

6.	RERA/CC/776/2019 RERA/AO/205/2019	Sri Satendra Singh	9,00,000.00	19-04-2014 30-04-2015 Total	3,00,000.00 <u>6,27,810.00</u> 9,27,810.00
7.	RERA/CC/777/2019 RERA/AO/206/2019	Smt. Punam Kumari	9,00,000.00	30-04-2014 30-04-2015 Total	3,00,000.00 <u>6,27,810.00</u> 9,27,810.00
8.	RERA/CC/778/2019 RERA/AO/207/2019	Sri Vijay Kumar Sharma	9,00,000.00	19-04-2014 10-05-2015 15-10-2015 Total	3,00,000.00 3,18,540.00 <u>3,10,500.00</u> 9,29,040.00
9.	RERA/CC/779/2019 RERA/AO/208/2019	Sri Ranjit Kumar	9,00,000.00	30-04-2014 10-05-2015 15-10-2015 Total	3,00,000.00 3,18,540.00 <u>3,10,500.00</u> 9,29,040.00
10.	RERA/CC/780/2019 RERA/AO/209/2019	Sri Satish Kumar	9,00,000.00	30-04-2014 15-10-2015 02-06-2015 16-06-2015 Total	3,00,000.00 2,00,000.00 2,00,000.00 <u>1,18,540.00</u> 8,18,540.00
11.	RERA/CC/781/2019 RERA/AO/210/2019	Smt. Vinita Mondal	9,00,000.00	21-04-2014 10-05-2015 Total	3,00,000.00 <u>6,27,810.00</u> 9,27,810.00
12.	RERA/CC/782/2019 RERA/AO/211/2019	Sri Md. Nasim Eqbal	9,00,000.00	30-04-2014 31-07-2015 15-12-2015 29-12-2015 Cash Total	3,00,000.00 3,18,540.00 3,10,500.00 1643.00 <u> </u> 9,30,683.00
13.	RERA/CC/783/2019 RERA/AO/212/2019	Sri Mani Shekhar	9,00,000.00	30-04-2014 30-04-2015 Total	3,00,000.00 <u>6,27,810.00</u> 9,27,810.00
14.	RERA/CC/784/2019 RERA/AO/213/2019	Sri Rajeev Ranjan	9,00,000.00	30-04-2014 30-04-2015 18-12-2015 Total	3,00,000.00 3,18,540.00 <u>3,10,500.00</u> 9,29,040.00
15.	RERA/CC/785/2019 RERA/AO/214/2019	Sri Narendra Kumar	9,00,000.00	30-04-2014 10-05-2015 31-03-2016 Total	3,00,000.00 3,18,540.00 <u>3,10,875.00</u> 9,29,415.00
16.	RERA/CC/786/2019 RERA/AO/215/2019	Sri Ajit Kumar	9,00,000.00	30-04-2014 10-05-2015 15-10-2015 Total	3,00,000.00 3,18,540.00 <u>3,10,500.00</u> 9,29,040.00
17.	RERA/CC/787/2019 RERA/AO/216/2019	Sri Manish Kumar	9,00,000.00	30-04-2014 01-05-2015 Total	3,00,000.00 <u>6,27,810.00</u> 9,27,810.00
18.	RERA/CC/789/2019 RERA/AO/218/2019	Sri Neeraj Kumar	9,00,000.00	30-04-2014 30-04-2015 30-12-2015 Total	3,00,000.00 3,18,540.00 <u>3,10,500.00</u> 9,29,040.00
19.	RERA/CC/790/2019 RERA/AO/219/2019	Smt. Sweta Singh	9,00,000.00	19-04-2014 10-05-2015 15-10-2015 Total	3,00,000.00 3,18,540.00 <u>3,10,500.00</u> 9,29,040.00

5. The Respondents did not complete the above project within the prescribed time of 3 years and grace period of 6 months from the date of execution of Agreement for Sale, due to which

each vendee/buyer, as per Agreement for Sale, has become entitled to get refunded his/her deposited amount along with accrued interest thereon on Bank rate from the Respondents. In spite of assurance, the Respondents failed to deliver possession of the flat to the complainants and also failed to refund the advanced consideration money to them. So, the complainants have filed these complaint cases against the Respondents with above reliefs.

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6. The Respondents after appearance have filed replies pleading *inter-alia* that they are ready to refund the principal amount of each and every complainant on cancellation of their allotment of flats, but they may be provided some time for refund in instalments and in light of their assurances these complaint cases may be disposed of.

7. On basis of the pleadings and submissions of learned lawyers of both the parties, the following points may be formulated to adjudicate the case:-

- (1) Whether the complainants are entitled for refund of their advanced principal amount along with accrued interest @ 18% per annum thereon against the Respondents?

(2) Whether each complainant is entitled for compensation of Rs.10.00 lacs against the Respondents for his/her mental, economical and physical harassment?

(3) Whether each and every complainant is entitled for litigation cost of Rs.1.00 lac against the Respondents?

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Point No.(1):

8. Admittedly, the complainants have constituted a society consisting of friends/employees/ex-employees of power sector like Power Grid Corporation, N.T.P.C. etc. in the name and style of “Power Grid Employees Welfare Society”/Power Welfare Organization having its office at Alankar Place, P.O. Boring Road, Patna-800001 (Bihar) with the objective to get constructed a residential complex for its members. It is also admitted case that on 19-04-2014 the General Secretary of the Society, Sri Shatrughna Mishra entered into a M.O.U. with the Respondents through Respondent No.2, Sri Alok Kumar, C.M.D. of Respondent No.1, M/s Agrani Homes Pvt. Ltd. to construct 100 flats having super built up area 1626 sq.fts. with one reserve car parking space consisted in two Blocks on consideration of Rs.9.00 lacs plus applicable Service Taxes on each flat, which have to be allotted to its members. It was further agreed that each and every member shall purchase the

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flat on payment of the above consideration in instalments to the Respondents. Each complainant has also executed Agreement for Sale with the Respondents through its Director, Sri Alok Kumar for sale/purchase of flat in the project “Power Grid Nagar”, Sarari, Danapur, Patna. It was also agreed between the parties in para-9 of Agreement for Sale that construction of said building shall be completed within 3 years with a grace period of 6 months from the date of Agreement for Sale, provided that time for completion shall be deemed to have been extended in the event of Force Majeure. If the Developer/Vendor is not able to give possession of the flats to the buyers / vendees on the above account or on any reasonable cause, the buyers/vendees may not be entitled to any damage, whatsoever, but shall be entitled to receive back the entire money paid by him/her to the Developer/Vendor. However, in para-3 of the Deed both the parties have further agreed that if the builder shall not hand-over the possession of unit within stipulated period and buyer/vendee wanted to get his/her money back, then the builder/vendor shall return the payments made by the buyer/vendee along with prevailing Bank interest to the buyer/vendee or if the buyer/vendee wanted to get the scheduled flat, the builder/vendor shall pay prevailing Bank

interest on total payments made to the vendor/developer over the delayed period (subject to para-9) to the buyer/vendee.

As per 1st proviso of Section-3 of the Act, 2016, the Respondents should have filed Completion Certificate for showing that the project Power Grid Nagar has been completed prior to enforcement of the Act, 2016 on 01-05-2017 and non-filing of Completion Certificate shows that project is ongoing. During continuance of Agreement either the Respondents should have completed the project and handed-over possession to the complainants within stipulated time or should have refunded their principal amount along with interest thereon at Bank rates as agreed in Agreement for Sale executed between both the parties. The complainants have stated that several revised dates of possession were filed unilaterally by the Respondents, but they failed to deliver the flats. It is correct that the Agreements for Sale between both the parties were executed on 19-04-2014 and time for delivery of possession was given within 3 years with grace period of 6 months, which has expired on 19-10-2017, so the buyers/complainants cannot wait indefinite period for delivery of possession of their flats. It also shows that when the Respondents have become unable to construct the project, then either Suo Moto or On Demand they

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should have refunded the amounts to complainants as stated above. However, as per proviso of Section-12 and Section 18(b) of the Act, 2016, it is reasonable for this Court to hold that the Respondents are liable to refund the principal amounts along with Bank interest thereon, as per Agreement for Sale, to each and every complainant.

9. The complainants have claimed interest @ 18% per annum on the advanced principal amount paid to the Respondents. But, the learned lawyer on behalf of the Respondents submitted that the Respondents are also making constructions of other projects and interest @ 18% per annum is much high, hence the same may be minimised. On going through the record as well as submissions of the learned lawyers of both the parties, it appears that the Respondents are running other projects, in which the interest of other buyers is involved and naturally the payment of higher rate of interest will adversely affect the construction business of the Respondents as well as the interest of other buyers. In such view of the matter and circumstances of the case, it appears that the prevailing bank interest agreed between the parties in each Agreement for Sale may be appropriate to be levied against the Respondents. As per rule 17, 18 of the Bihar Real Estate (Regulation and Development)

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Rules, 2017 (hereinafter referred to as the “Rules, 2017”), the Respondents have to pay simple interest 2% above the M.C.L.R. of S.B.I. Presently, the M.C.L.R. of S.B.I. is 7.3% per annum for loan of more than 3 years and if 2% is added, the interest rate will come 9.3% per annum. Hence, the Respondents have to refund the principal amount to each and every complainant paid by him/her to the Respondents along with accrued simple interest @ 9.3% per annum on said principal amount from the date of payment made by the respective complainant to the Respondents. Accordingly, Point No.1 is decided in positive in favour of the complainants and against the Respondents.

Point No.(2):

10. Each complainant has also claimed compensation of Rs.10.00 lacs for his/her mental, economical and physical harassment. As per Section 72 of the Act, 2016, the Respondents have been benefitted with advanced principal amount paid by the complainants, which is approximately more than Rs.1,71,00,000/- and still the said amount is lying with the Respondents and they are using the same in their business. Presently, the Respondents are avoiding delivery of flats/refund of advanced principal amount to the complainants. The complainants cannot wait for indefinite period for delivery of

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their flats by the Respondents. So, naturally, their demand for refund of advanced principal amount appears genuine. It is also to be mentioned here that now a flat of same area will not be available to each and every complainant in the same locality at the same price, which was available to him/her in the year 2014. Hence, naturally the price of flats would have been multiplied. Most of the complainants have paid approximately Rs.9,00,000/- plus Service Tax to the Respondents, which is 100% of the total consideration. The Respondents are running their other projects and improving their business. In addition, in spite of repeated assurances in the Court, the Respondents have not refunded the advanced principal amounts to the complainants, so taking all situations into consideration and the advance principal amount paid by the complainants to the Respondents, I think, except complainants, Bipin Bihari Singh, Satendra Kumar and Satish Kumar, Rs.1,50,000/-, which is about 17% of the advanced principal amount Rs.9,00,000/- will be appropriate amount as compensation to each complainant for their physical, economical and mental harassment. The complainants Bipin Bihari Singh may be paid Rs.75,000/- and Satendra Kumar and Satish Kumar may be paid Rs.1.00 lac each as compensation for their physical, economical and mental

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harassment. Accordingly, Point No.2 is decided in positive in favour of the complainants and against the Respondents

Point No.(3):

11. The complainants have visited repeatedly to the office of the Respondents and consulted them as well as their staffs for refund of their advanced principal amounts, but neither the Respondents nor their staffs have given any heed to their requests till filing of the present complaint cases. I think, the complainants would have incurred expenses in visiting to the office of the Respondents, executing documents in the A.O. Court of RERA, Bihar, depositing Court Fee, engaging learned lawyer and in all these process, they would have incurred not less than Rs.25,000/-, which must be paid by the Respondents. Accordingly, I find and hold that each and every complainant is entitled for litigation cost of Rs.25,000/- against the Respondents. Accordingly, Point No.3 is decided in positive in favour of the complainants and against the Respondents

Therefore, all the 19 complainant cases of the complainants named above are allowed on contest with litigation cost of Rs.25,000/- (Rupees twenty five thousand only) to each and every complainant against the Respondents. The Respondents are directed to refund the advanced principal

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amounts along with accrued simple interest @ 9.3% per annum thereon since respective date of payment by each and every complainant to the Respondents till actual date of refund to each and every complainant. The Respondents are further directed to pay compensation of Rs.1,50,000/- (Rupees one lac fifty thousand only) to each complainant, except complainants Bipin Bihari Singh, Satendra Kumar and Satish Kumar for their mental, economical and physical harassment. They are further directed to pay Rs.75,000/- to Bipin Bihari Singh and Rs.1.00 lac each to Satendra Kumar and Satish Kumar for their mental, economical and physical harassment. The Respondents are further directed to comply the order within 60 (sixty) days, failing which the complainants are entitled to get enforced the order through process of the Court.

Sd/-
(Ved Prakash)
Adjudicating Officer
30-09-2020