

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**  
**Telephone Bhavan, Patel Nagar, Patna-800013.**

**Before the Double Bench of Mr Naveen Verma, Chairman**  
**& Mrs Nupur Banerjee, Member**

**Case No. RERA/CC/1734/2020**

Alka Sharan.....Complainant

Vs

M/s Classicon Builders Pvt. Ltd..... Respondent

**ORDER**

**15.02.2022** The matter was last heard on 18-1-2022.

**17.02.2022**

The instant matter was filed by Sri Ashok Kumar Sinha, now deceased and on the basis of the substitution petition filed by the wife of the deceased, Smt Alka Sharan is now the complainant.

The complainant has stated in this case that she is the owner of land having holding no. 1085/525, 1086/526,1105, 1106 and 1107. It has been stated that from perusal of mutation order no. 200/3 96-97, it is apparent that after the death of Late Sita Bar Sharan, her property would divest upon her legal heirs including the complainant. It has been alleged that the respondent company by fraudulent means has managed to obtain the approval of map plan case no. P/Sheikhpura/PRN/8-156/06 from the competent authority. Therefore, the complaint has been filed praying for taking appropriate action against the respondent company.

The complainant has referred to the computer generated holding receipt no. 6416, 6417, 6413, 6414 and 6415. She has alleged that from perusal of computer generated receipt no. 98737, 98738, 98739, 98740 and 98741 issued by the Patna Municipal Corporation, NCC Patna on 11.09.2008 and also from the mutation order dated 16.10.2002, it is established that the complainant is the owner of the land having holding no. 1085/525, 1086/526,1105, 1106 and 1107.

Reply has been filed by the respondent company wherein they have opposed the entire averments in the complaint. The respondent company has stated that the building was started only after the execution of Agreement between respondent and land owner namely Late Savitri Devi and signed by the Legal heirs. The respondent company has further stated that a partition suit bearing Partition Suit No. 470/2006 regarding the dispute in land is pending before Civil Court, Patna Sadar. It has also been stated that after prayer of injunction for restraining the respondent company from carrying out the construction was dismissed, the complainant had moved Hon'ble Patna High Court by way of Misc. Appeal No. 168/2008 which was also dismissed with a direction to the respondent company to carry on the construction. Thereafter, a

Miscellaneous Jurisdiction Case bearing no. 1109/2010 initiating contempt proceedings was filed by the complainant before the Hon'ble Patna High Court which was also dismissed. It is stated that this was because the earlier order was to be complied by the respondent company and the instant dispute was to be resolved before the Civil Court. The respondent company has further stated that another Test Suit was filed by Late Savitri devi against the complainant before the Hon'ble Patna High Court in which the Hon'ble High Court vide order dated 05.10.2012 restrained the complainant for filing any application against the respondent company before any court or authority.

During the last hearing, the learned Counsel for the complainant submitted that her right with respect to 1/9<sup>th</sup> share of the property was protected by the Hon'ble Patna High Court in Misc. Appeal no 168/2008. The learned counsel for the complainant reiterated that the work is still incomplete and has prayed for issuing direction to the respondent company to complete the work in the share reserved for her.

On the contrary, the learned counsel of the respondent company submitted that the complainant has contravened the direction and orders of the Hon'ble Patna High Court and has filed the instant case before the Authority as well as Civil Court Patna Sadar. Not only this, the respondent company has further alleged that the complainant has concealed from the Authority that the matter is not pending before any other court or forum. The learned counsel for the respondent raised questions on the title of the complainant.

Perused the records of the case. The Bench notes that the dispute in the instant case is of a civil nature and beyond the power vested with the Authority under the Real Estate (Regulation and Development) Act, 2016. The submission of the complainant with respect to protection of 1/9<sup>th</sup> share would have to be adjudicated by a court of competent civil jurisdiction. The order dated 10.02.2009 of the Hon'ble Patna High Court that the share to be reserved for the complainant would be subject to the final order to be passed in the Partition Suit no. 470/2006 before Civil Court, Patna Sadar does not come in the way of completion of the flat.

Hence, on the basis of the submissions and documents filed, the Bench observes that it is the responsibility of the respondent to complete the work in the apartments. The respondent company is directed to complete the work in the project within a period of 60 days from the date of this order.

With these observations and directions, the matter stands disposed of.

Sd/-  
**Nupur Banerjee**  
Member

Sd/-  
**Naveen Verma**  
Chairman