

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR

Before the Single Bench of Mr Naveen Verma, Chairman

Execution Case No. 26/2019, RERA/CC/82/2018

Sitaram Singh.....Complainant

Vs

M/s Nesh India Infrastructure Pvt Ltd.....Respondent

Present: For Complainant: Mr RB Sah, Advocate

For Respondent: MrAbhay Kumar, MD

16-11-2021

ORDER

22-11-2021

The matter was last heard on 22-10-2021.

The complainant had filed a complaint petition under section 31 of the Real Estate (Regulation & Development) Act, 2016, on 18-09-2018 against M/S Nesh India Infrastructure Pvt. Ltd. through its MD Sri Shashi Bhushan Sinha for possession of their share of flat after issuance of completion certificate (CC) and occupancy certificate (OC) of the project, compensation at prescribed rate for the period of delay in handing over the flats and additional damages and compensation for mental torture and harassment caused to them by the builder through their repeated demands for additional money for handing over the flats.

The complainant, in his Execution Petition filed on 30/10/2019 has submitted that final order dt. 09-08-2019 was passed directing the respondent company to hand over possession of three specified flats along with a covered parking space for a 4-wheeler vehicle with each flat to the complainant after taking completion certificate and occupancy certificate of the project within 60 days of issue of this order, in lieu of land area offered. It was further ordered that the complainant will not have to pay anything to the respondent company in this respect at the time of possession, as stipulated in the supplementary agreement, except the demand of one-time maintenance charges raised by the provided such charges are payable by all other allottees also.

The Bench notes that the learned counsel for the respondent company was given ample opportunity to comply with the final order dated 09-08-2021 but has failed to do so. Therefore, a token penalty of Rs. 1 lakh (one lakh only) is imposed upon the respondent company to be paid within 15 days from the date of order.

The learned counsel for the respondent company submitted that second appeal has been filed before the Hon'ble Patna High Court and this matter has been listed for hearing.

The learned counsel for the complainant submitted that the learned counsel for the respondent company has failed to obtain a stay order from the Hon'ble Patna High Court in the second appeal preferred by them against the order dated 09-08-2019. He submitted that the respondent company is just using delaying tactics in the case as no evidence of acceptance of appeal or stay order has been submitted before the Authority till date.

The Bench takes note of the submissions by both parties. It is a fact that as on date no order has been shown which stays the order passed by the Authority on 9.8.2019. Under these circumstances, the respondent company is hereby directed to comply with the order passed in the complaint case on 09-08-2019 within 15 days from the issuance of this order. In case of failure to comply the order within the stipulated time frame, the Bench will be constrained to proceed further and issue notice u/s 40 of the Real Estate (Regulation & Development) Act, 2016.

Sd/-

Naveen Verma
Chairman