

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**

**Before the Single Bench of Mrs. Nupur Banerjee**

**Case No. 847/2021**

**Subhang Nandan & Ors.....Complainant**

**Vs.**

**M/s Deepshree Properties Pvt. Ltd & Anr.....Respondent**

**Project: Godawari Palace, Danapur**

**For Complainant: Mr. Ishtiyaque Ahmad, Advocate**

**For Respondent : Mr. Rakesh Roshan Singh, Advocate**

**27/07/2022**

**ORDER**

The matter was last heard on 20-06-2022.

This matter was filed by the total 31 complainants on 06-08-2021, seeking following below relief:-

1. To direct the respondent to remove illegal construction made by them in the premises of the Godawari Palace.

In short, the case of the complainants is that they approached before this Authority for the removal of the illegal construction made by the respondents in the basement/ parking area after approval of the map as well as for creating nuisance and tress pass in the residential premises and for using it for commercial purpose in the apartment 'Godawari Palace', situated at Saguna More, Danapur Khaulgaul Main Road. The complainants have further submitted in their complaint that at the time of executing sale deed in favor of complainants, respondent have shown the map approved with specifications from Danapur Municipal Corporation in which apart from other amenities, in basement there are reserved parking space for the respective flat holders surrounded by open boundary wall upto roof level and six feet open space from boundary wall but unfortunately the respondent have made illegal construction by making shops/godown in the open space/adjacent to boundary wall by violating all the rules and regulation of the building bye laws.

On 12-07-2022, a supplementary petition has been filed by the complainants for making correction stating therein that the name of the complainant nos. 18 & 19 i.e. Parwati Devi (bearing flat no.601) and Sunita Sinha (bearing flat no.602) be deleted from the record of the case.

The Bench allows the Supplementary petition of the complainant, the name of the above stated complainant is considered as deleted from the complainant petition and accordingly, this application is disposed of.

Perused the record of the case. The respondent has filed his counter reply stating therein that this complaint case is not maintainable before the Authority firstly as the project in question namely Godawari Palace has been fully constructed much prior (in January 2015) to the existence of RERA in Bihar i.e. June 2017 and secondly this case is totally based upon an issue of illegal construction taken place in building and for this Municipal Corporation has power and jurisdiction to look into the matter. It is also submitted that the complainant himself had informed that already a complaint before the Competent Authority is sub-judice and the principal of res judicata also applies here. It has been further submitted that the allegation made under the complaint is completely untrue because whatever claim is made, about the illegal construction into the basement area surrounding parking area is completely wrong because those parts are also a part of layout plan or approved map. It has also been further submitted that approved map as annexed as Annexure-1 of this reply which is map plan made by a certified architect namely Raman Kumar and sanctioned from Nagar Parishad Danapur Nizamad dated 28.11.2011, very clearly states that the structure made under basement area is completely legal and as per approved plan. It has also been submitted that the project in question has been constructed between 2011 to January 2015, much prior to the existence of RERA in Bihar and most of the flats were sold-out in 2015 itself even most of the people (allottees) started residing there much prior to the existence of RERA with proper electricity connections which can be evident from the Annexure-2 Absolute Sale deed.

On 12-07-2022, complainant has filed a supplementary petition stating therein that the complainant sides already has approached before the competent Authority regarding the grievances made in this complainant and relief sought and prayed that this case may be decided accordingly.

After the perusal of documents placed, submissions made by both the parties, the Bench observes that the issue involve in the present case is regarding illegal construction in contrary to the sanctioned plan as alleged by

complainants, hence, the Bench is in view that to adjudicate upon such issue the competent forum is one who has passed the map, therefore, the Bench advised the complainants to approach before the competent authority in relation to their issue claimed.

As complainant in the supplementary affidavit filed on 12-07-2002, has stated that they already has approached before the competent Authority regarding the grievances made in this complainant and relief sought, hence, considering the same, the present complaint is disposed of.

Sd/-

Nupur Banerjee  
Member