

**REAL ESTATE REGULATORY AUTHORITY, BIHAR**

**Before the Division Bench of  
Mr. S.D. Jha, Member, RERA, Bihar.**

RERA/CC/923/2021

Sri Krishna Singh.....Complainant

Vs.

M/s Genx Infra Homes Pvt. Ltd. ....Respondent

**PROJECT: LANDMARK, BLOCK B & C**

For Complainant: Sri Puneet Siddhartha, Advocate

For Respondent: Sri Rahul Kumar, Advocate,

**ORDER**

16.01.2023                      Hearing taken up. Sri Puneet Siddhartha, Advocate, appears for the complainant and Sri Rahul Kumar, Advocate, appears for the respondent.

Learned counsel for the complainant submits that the complainant is the land owner of the project. The complainant and the respondent – promoter entered into an agreement on 1.9.2012 for construction of multi storied buildings over his land situated at Jalalpur Dental College, Patna, which was to be completed within 3.5 years with 6 months grace period and thereafter a Share Distribution Agreement took place between them on 22.2.2022 & 23.2.2022, wherein total constructed flats and additional constructions including the parking areas made over the land of the complainant was agreed to be divided in 50-50 share and thereby after completion of construction work of the project 54 flats came to the share of the complainant.

Learned counsel for the complainant further submits that when the respondent – promoter did not hand over the share of the complainant, he moved the authority in RERA/CC/923/2021 for getting possession of his flats along with car parking as per the terms and agreement, wherein the Authority vide judgment dated 21.1.2022 had directed the

respondent to hand over the possession of flats and car parking within 60 days with liberty to the complainant to approach the Authority in case of non-compliance of the order. In the said order dated 21.1.2022, the Authority also observed that as per the development agreement in connection with non-completion of work within the time frame, the Authority had imposed a penalty of Rs.25000/- per month till the handover the project and accordingly the respondent – company was made liable to pay Rs.14,75,000/- to the complainant, but in spite of these directions not only the respondent had not handed over the flats and parking areas to the complainant but also, in the meanwhile, the respondent started selling the flats of the share of the complainant. As a result the complainant moved the Real Estate Appellate Tribunal vide REAT Appeal no.4 of 2022, whereby the Appellate Tribunal vide judgment dated 5.9.2022 has, inter alia, imposed a penalty of Rs. 5 lacs under Section 64 of the RERA Act on the respondent-promoter to be deposited within 60 days of the judgment.

Learned counsel for the complainant lastly submits that the complainant only wants 50% share of total construction work including parking space made over his land and he requests that the respondent may be directed to handover the key of the flats and parking, which fall in the share of the complainant, before the Authority.

Learned counsel for the respondent submits that the respondent – company is ready to hand over 50% share of the total built up areas including the parking space made over the land of the complainant. He also submits that the respondent – company would have handed over the 50% share of the complainant within 60 days in terms of the order dated 21.1.2022, but since the respondent – company did not have obtained occupancy certificate from the competent authority, it

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failed to hand over the shares of the complainant within the time granted by the Authority. But the complainant in order to harass the respondent – company moved the Appellate Authority even before expiry of 60 days of the time granted by the Authority. He further submits that it would be better that the Authority may observe to direct both the parties to move the competent jurisdiction of the Civil Court for deciding the dispute, if any. Here, the Authority notes that it is not the business of the Authority to advise the parties where to move. Any person is free to exercise his/her legal rights for settlement of any dispute to the forum which he/she likes to move.

Having heard learned counsel for the parties and perused the record including the deed of Share Distribution Agreement, prima facie, the Authority finds that an agreement between the complainant and the respondent took place for getting multi storied buildings constructed over the land of the complainant and it was agreed between them to be divided in the ratio of 50-50% share of the total built up areas including the parkings made over the land of the complainant, which was to be handed over within the period of 3.5 years, but the respondent failed in completing the work and handing over the possession to the complainant in time. As result, in a complaint case ( RERA/CC/2021) moved by the complainant, the Authority had imposed a penalty of Rs.25000/- per month till the handover of the project which was calculated at Rs.14,75,000/- to be payable to the complainant till the passing of order i.e. 21.01.2022, but the record does not reflect whether the said amount has been deposited by the respondent or not. In this connection the Legal Cell, RERA, is, therefore, directed to verify whether the aforesaid amount has been deposited or not. If the same has not been deposited then follow up action may be taken by the Cell accordingly.

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The record further reveals that the Appellate Authority in REAT Appeal no.4 of 2022 vide judgment dated 5.9.2022 has also imposed penalty of Rs. 5 lacs on the respondent to be deposited within 60 days of the judgment, but the record in this connection also does not show whether the said amount has been deposited or not. The Legal Cell, RERA is further direction to look into this matter and if the same has not been deposited the follow up action may be taken in this matter also.

Learned counsel for the complainant is very much clear in his stand that the complainant only wants his 50% shares including the car parking spaces as well as additional constructions made over his land, to which learned counsel for the respondent submits that the respondent – company is willing to hand over the possession of the 50% flats and additional constructions including car parking spaces to the complainant in terms of the agreement arrived at between the parties in the Share Distribution Agreement. Hence, the Authority directs that the respondent – company to hand over the 50% flats and additional constructions including car parking spaces to the complainant made over his land as per the agreement arrived at between the parties within a period of one month from the date of this order. It is pertinent to mention that the order dated 21.1.2022 regarding imposition of penalty of Rs.25000/- per month shall remain in force till the possession is handed over.

With these observations and directions, this case is disposed of.

Sd/-

**S.D. Jha,  
Member**