

**REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR**  
**Before the Single Bench of Mrs. Nupur Banerjee, Member**

**Case No: RERA/CC/427/2023**

**M/s Vineet Homes Pvt. Ltd.**

**...Complainant**

**Vs.**

**Navin Prakash Diwakar & anr.**

**...Respondent**

**Project: Ishani Enclave**

**02/08/2024**

**INTERIM ORDER**

The matter was last heard on 15.07.2024, when Mr. Kishore Kunal, Advocate appeared on behalf of the complainant and Mr. Ishtiyaque Hussain, Advocate appeared on behalf of the respondent.

This complaint petition has been filed seeking relief to direct the respondent to pay the amount of Rs.28,03,500/- including GST amount to the complainant with interest and compensation.

In short, the case of the complainant is that the complainant is the promoter and the respondents are part landowner of RERA registered project 'Ishani Enclave. On 10.11.2018 the complainant and the respondents along with Smt. Kamleshwari Devi, Smt. Binny Kumari, Sri Vikash Kumar and Sri Vivek Kumar entered into development agreement. Thereafter on the same day on 10.11.2018 both the landowner and the promoter also entered into share division agreement, in which the share of the respondents has been decided. It is also stated that as per the share division agreement one more shop no.G3 which is almost half size of shop no.G4 and one flat no.404 of super built up area 1550 sq.ft. with car parking space no.23 of same project has been handed over to the respondent Navin Prakash Diwakar falling in the share of Smt. Kamleshwari Devi (mother of Naveen Prakash Diwakar) on her request. A copy of the share division agreement has been annexed as Annexure 2 to this petition. In the meantime, the respondents requested the promoter to give personal loan of Rs.6.66 lakh and in good faith the complainant paid Rs.6.66 lakh through cheque no.099708 dated 04.05.2019. A copy of the voucher is annexed as Annexure 3 to this petition. Thereafter on 14.10.2020 the respondent has requested the complainant for exchange of flat no.103 with shop no.G4 and the respondent assured the complainant to pay difference of costs of the flat and the shop and a sum of Rs.10.00 lakh was agreed by the respondent to pay to the complainant. As per the assurance of the respondents, the complainant has sold flat no.103

and other flat of the same size at the rate of Rs.35.00 lakh per flat and adjusted the cost of shop for Rs.45.00 lakh, hence difference of Rs.10.00 lakh is due for payment from the respondent Kiran Devi. It is stated that as per the development agreement as well as share division dated 10.11.2018, the complainant has handed over four flats with four car parking space and two shops to the respondent but till date the respondents have not paid the GST amount of Rs.12,37,500/-. It is also stated that as per the request of the respondents, the complainant has done extra work of painting of flats of the respondents of Rs.2.00 lakh but till date the respondent has not paid any amount for extra work. Therefore, the respondent is liable to pay total Rs.31,03,500/- but till date the respondents paid only Rs.3.00 lakh out of the said amount and rest amount of Rs.28,03,500/- is due from them and in spite of repeated requests, they have ignored. It is stated that Sri Madan Prakash (landowner), other co-sharer of the project who is younger brother of Navin Prakash Diwakar has already paid his share of GST of Rs.1.57 lakh. In this regard, he has referred to an order of the Authority passed in RERA CC/1067/2021. On 21.08.2023 the complainant also sent a legal notice but the respondents have not taken any response to it. It is also stated that a criminal case is pending against the respondents as well as his son vide Shastri Nagar P.S.Case No.171/2014. It is also stated that in spite of several reminders, the respondents are not ready to pay the aforesaid amount.

The complainant has placed on record the copy of the Development Agreement, Share Division Agreement and the supplementary agreement.

A reply has been filed on behalf of the respondent stating that the present case is nothing but outcome of Complaint Case No.439/2023 filed by the respondent on 08.09.2023. The parties have entered into a development agreement dated 10.11.2018 in the ratio of 50% share of the flat and parking space. It is stated that the facts stated in para 4(vi) of the petition is incorrect because as per the knowledge of the respondents, he never took any loan from the promoter. Some amount has been paid by the respondent company as non-refundable amount to which the complainant has tried to show the same to be loan amount. The averment made in para 4(vii) is partly false because in place of flat no.103, Shop No.G4 has been exchanged with mutual consent of both the parties for which a separate agreement dated 14.10.2020 has been prepared and in the said agreement there is no mention about any amount which has been paid by the respondent in place of taking Shop No.G4. It is also stated that no work has been done by the promoter as stated in para (ix) of the petition. The statement made in para (xiii) is also false and fabricated allegation because the amount of GST had to be paid in accordance with GST law if demanded by the GST Department. It is further stated that the respondent has not received any

legal notice from the complainant. So far as the statements made in para (xv) to (xix) is concerned, it has no legs to stand save and except dispute over land is going on with the Gotia of the respondent and the respondent is respectable person of the society having clean antecedents. Therefore, the present complaint is nothing but the same has been filed only with a view to harass the respondent and hence, it is fir to be dismissed with cost.

In para4(ix) of the complaint petition it is stated that at the request of the respondent, the complainant has done extra work of painting of the flat of the respondents of Rs.2.00 lakh but from the records, it appears that the complainant has not given any proof of the extra work done. So, the complainant is directed to file supplementary affidavit giving evidence of the extra work done in the flat in question.

Put up this matter for hearing on 05.09.2024.

**Sd/-**  
**Nupur Banerjee**  
**(Member)**