

**REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR**  
**Before the Single Bench of Mr. Naveen Verma**

**Case No: RERA/CC/1146/2021**

**RSD Flat Owners Association**

**...Complainant**

**Vs.**

**M/s Pahi Construction Pvt. Ltd & Anr.**

**...Respondent**

**Project: RSD Complex, Block A & B.**

**25.04.2022**

**INTERIM ORDER**

The matter was heard at length on 10.02.2022 and 13.04.2022.

The complainant has filed this complaint case against the promoter and has also impleaded the land owner as a co-promoter for completion for certain works and providing some amenities.

Learned counsel for the complainant has submitted that the land owner had actively participated in the construction of the project and had also got the map approved. The prayer of the complainant is to restrain the land owner from selling the flats of his share. The complainant has also requested for directions to get the project registered as an ongoing project and obtaining the occupancy certificate after completion of all the works by the promoter.

Learned counsel for the land owner has challenged the submissions of the complainant on the ground of res judicata and that this matter has also been decided earlier by the Authority which was also challenged before the Appellate Tribunal. He submitted that this matter may be linked with the case records of RERA CC/05/2018.

Learned counsel for the complainant has referred to the circulars issued by the RERA Goa, Karnataka, Rajasthan and Jharkhand, where certain conditions have been laid down to classify the land owner as a promoter.

Learned counsel for the land owners submitted that the grievances of the complainant are against the promoter to whom consideration amount was paid by them and that the land owner is not a party to any such transaction.

The Bench observed that the promoter has not been appearing in this matter.

The basic issue to be decided at this stage is whether the land owner is a co-promoter or not and whether the land owner is obliged to fulfil the obligations of the promoter as defined under RERA Estate (Regulation and Development) Act, 2016 and particularly to get the project registered.

The Bench observes that under the Bihar Real Estate (Regulation and Development) Regulations, 2021, a land owner enjoys the same rights and privileges as any other allottee in terms of Section 6(3) of the Regulations. These Regulations have been notified and they are part of the subordinate legislation of the State governing the affairs of the RERA, Bihar. Reference to the orders and the circulars by the other RERAs is not material. The Bihar RERA Regulations have included the land owner as an allottee and hence, the land owner is not required to fulfil any of the obligations of the promoter.

In view of above, the land owner is not a necessary party to the complaint case and therefore, his name should not be impleaded as a

respondent. The land owner automatically become the member of the allottees and therefore, the case by the Association against one of its members would not be maintainable before the Authority. The complainant may seek redressal of his grievances from the promoter who continue to remain a respondent in this matter.

Put up for hearing on 18.05.2022.

Sd/-

**Naveen Verma**

**Chairman**