

**REAL ESTATE REGULATORY AUTHORITY, BIHAR
IN THE COURT OF ADJUDICATING OFFICER, RERA, BIHAR**

RERA/CC/516/2024

RERA/AO/111/2024

Ram Bishun Prasad----- Complainant

v.

M/s Saarthak Hitech Home Developers Pvt. Ltd. -- Respondent

PROJECT:RAM LAKHAN PLAZA

11/08/2026

ORDER

The complainant has filed this case to direct the respondent for payment of compensation of Rs. 15,00,000/- (Rs. Fifteen Lakhs only) for non-abiding the rule, mental agony and torture as the promoter fails to complete and to give possession over the flats for which agreement was signed.

2. The complainant's case in brief is that two development agreements dated 15.02.2015 and 17.02.2016 were signed for construction of multistoried building on their self-acquired land in which the first development agreement dated 15.02.2015 was unregistered and the second was registered. The development agreement has been cancelled on the ground that one of the partners of developer, namely Naxxon Indra Heights Pvt. Ltd. through Ravi Kant Singh son of Kameshwar Singh was busy in the daily routine work. The construction was to be completed within three years with the grace period of six months but no construction initiated in stipulated time and second agreement become infructuous. A third agreement was signed between the complainants/landlords and respondent/promoter on 05.02.2019 for construction of said multistoried building name and style Ram Lakhani Plaza. On the basis of third agreement dated 05.02.2019 construction work of multistoried building is going on and reached at the level of

finishing but as per Clause 5 of the agreement, the 50% share as per measurement of land has not been marked till date and it came in knowledge that most of the flats booked for sale without allotment to the land owner which is completely illegal. Without giving share of the complainant the respondent cannot sell flats, for this factpleader notice was given on 08.09.2022 but no action was taken by the developer, hence the complainant filed case in RERA bearing Case No. RERA/CC/602/2022 and the case was disposed of vide order dated 02.02.2024 with a direction to the respondent company and its Director Shri Sunil Kumar to earmark/ identify 50% share of the complainants out of the total constructed flats made over their land and handover the same with all amenities to them as per agreement dated 05.02.2019 within two months from the date of issue of the order. After lapse of two months the order passed by the Hon'ble Member has not been implemented till date and it is disobedience of the order. The respondent has also not implemented the order dated 23.11.2023 by which respondent was directed to pay penalty of Rs. 10,000/- with additional penalty of Rs. 1000/- per day w.e.f. 20.10.2023 till deposit of the above amount. So the complainant is entitled to get the compensation of Rs. 15,00,000/- (Rs. Fifteen Lakhs) for delay in completion of building/ apartment and for mental agony and torture.

3. A reply has been filed on behalf of the respondent stating that the instant complaint case is not maintainable either in fact or in law as the complainant/ landowner is a co-promoter in the terms of Regulation 6 of the Bihar RERA General Regulation 2024. The instant dispute pertains to the share distribution agreement and thus the jurisdiction to decide the dispute completely lays under the Commercial Courts Act, 2015. There is no delay in the completion of the project and other land owner has already acquired possession of his share in the project and the complainant has filed this case by ulterior motive and refused to take possession of his share deliberately. The complainant has

not been given any opportunity to accrue wrongful gain over his own fault and in the instant case the complainant is in his own fault by not taking possession of his share. The complainant is trying to enforce the development agreement by instituting the compensation case and the same is not maintainable and the appropriate forum for enforcing specific clause of the development agreement is Civil Court. The complainant is himself defaulter as he has not paid the GST for his share in the project as well as amenities charges and the respondent has raised the same issues at the time of hearing of complaint case No. 602/2022. The complainant is not satisfied with the allotment of share whereas the other landowners have got their share and have been residing peacefully in the apartment. The respondent promoter has filed an appeal before the Bihar Real Estate Appellate Tribunal bearing Appeal Token no. - 28/2024 against the order dated 02.02.2024 passed in RERA/CC/602/2022 as the learned Authority has failed to appreciate the share distribution agreement dated 02.02.2019 and also failed to allot specific share to the complainant while deciding the said case. So this case is to be dismissed.

4. Heard Shri Anil Kumar, learned counsel for the complainant and Shri Sumit Kumar, learned counsel for the respondent. Perused the case record.

5. After hearing and perusal of the record, it appears that the complainant has already filed a case bearing No. RERA/CC/602/2022 in which the order was passed on 02.02.2024 to complete the project and hand over 50% share and also penalty has been imposed and given liberty to file case for compensation before the Adjudicating Officer. So far allegation regarding relation of allottee and developer is concerned, that is not sustainable in the eye of law as after considering this fact, order has been passed against the respondent and this court has only to consider about compensation and no other matters. It is admitted fact that the order of the Authority has not been complied and the

respondent has preferred Appeal in REAT. At this state, the order of Authority is still in existence and as such this court has no jurisdiction to interfere in the order of Authority. Non-execution of the order of the Authority is matter of Authority or its execution court. So far the compensation is concerned, that may be considered by this Court as not only given liberty by the Authority, rather by the RERA Act also.

6. Considering the aforesaid facts and circumstances, the complainant has gone into mental and physical agony due to the act of the respondent and also borne litigation cost. Thus, the respondent is directed to pay Rs. 3, 00,000/- (Rs. Three Lacs only) for mental and physical agony and Rs. 50,000/- (Rs. Fifty thousand only) for litigation cost to the complainant. The respondent is directed to pay the aforesaid amount within sixty days of the issue of this order.

7. With the aforesaid observations and directions, this case is disposed of.

SD/-

(Vinod Kumar Tiwari)
Adjudicating Officer
RERA, Bihar