

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

Case No. RERA/CC/1200/2021

Sunita DeviComplainant

Vs.

M/s Technoculture Building Centre Pvt. Ltd.....Respondent

Project: - Vastu Vihar, Samastipur

ORDER

29.08.2022

20.09.2022

The matter was last heard on 01.07.2022.

The case of the complainant is that she bought 4 katha 3 dur land from Sri Satyanarayan Jha and Shri Kameshwar Jha on 27.01.2014 and mutation was done in e 2018 and jamabandi no. 2314 was created in her name. The complainant has stated that her land is adjacent to and that of the respondent-promoter. The representatives of the respondent company have been putting pressure on her to sell her land to them at very cheap rate on which the complainant did not agree. The complainant has stated that on 16/11/2018 an application was made under sec 144 by the son of the complainant to stop the construction but the construction was not stopped.

The complainant has sought relief to restrain the respondent from any further construction and also to direct the respondent to vacate the encroached area of the complainant at the earliest. The complainant has claimed compensation for mental, physical, and financial harassment with the litigation cost of Rs.5,00,000/-.

The complainant has placed on record a copy of order dated 18.04.2019 passed by Sub Divisional Magistrate, Samastipur and registration certificate of the project.

The respondent has filed its preliminary objection stating therein that the complaint filed by the complainant, on the ground is beyond the purview of the Real Estate (Regulation & Development) Act, 2016 (herein after referred to as "the Act") and Bihar Real Estate (Regulation & Development) Rules, 2017 (herein after referred to as "Rules"), and the subject matter is beyond the jurisdiction

of this Authority. It has been further submitted that the complainant of this Case is neither an “allottee” as per Section 2 (d) of the Act nor “Landlord, who is getting apartments in lieu of land” as per Rule 6 (3) of the Bihar Real Estate Regulatory Authority (General) Regulations, 2021, but is an outsider, who does not have any right to claim anything under the Act or the Rules stated above. It is further submitted that the complainant filed a case under Section 144 of Cr.P.C., however, the said 144 proceeding has been dismissed vide its order dated 18.04.2019 with direction to approach Civil Court. It is also submitted that the Complaint also filed a Case before the Public Grievances Redressal Forum and the same has also been dismissed and confirmed by the First Appellate Authority vide its Order Dated 26.11.2019 and after the dismissal order passed under Section 144 Cr.P.C., the Complainant filed a Title Suit No. 112/2021 before the Samastipur Civil Court and also approached before this Learned Forum, which is beyond the purview of the Act and prayed to dismiss the Complainant Petition as not maintainable with costs.

On the hearing dated 31/05/2022 the learned counsel for the complainant refuted the complaint petition and prayed to restrain the respondent from constructing the project. On the last date of hearing learned counsel for the respondent reiterated the points mentioned in the preliminary objection stating that the complainant is not an allottee and that the case is not maintainable before the Authority. He stated that the issues raised by the complainant are subject matter of dispute and a title suit has also been filed which is being heard by the competent Civil Court.

The Bench observes that as per the Section 31 of RERA, Act, a complaint with the Authority or the Adjudicating Officer, as the case may be, for any violation or contravention of the provisions of this Act or the Rules and Regulations made there under against any promoter allottee or real estate agent. The Bench is of the opinion that ‘any aggrieved person’, who is neither an allottee nor a promoter nor a real estate agent has to be read with an explanation, “person” includes an association of allottees or any voluntary consumer association registered under any law for the time being in force. The complainant is admittedly not an allottee. Hence, the Authority finds that this case is not maintainable before the RERA.

The submissions made by both the parties makes it apparent that there is a dispute between the parties and a Title Suit is pending adjudication before the competent civil court for the same cause of action. The documents submitted by the promoter may be examined again and if no undertaking on the dispute of title has not been given, it would not be appropriate to create third party interests. The question of initiating action under Section 7 of the Real Estate (Regulation and Development) may be examined separately.

With these observations the matter is disposed of.

**Sd/-
Naveen Verma
(Chairman)**