

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

RERA/CC/187/2024

RERA/AO/62/2024

Amrita Devi ----- Complainant

v.

M/s Loyala Tech Marketing Services Pvt. Ltd. ----- Respondent

PROJECT : LOYALA VALLEY SASARAM

08/06/2026

ORDER

The complainant has filed this case to refund Rs. 5,30,000/- with 12% interest.

2. The complainant's case in brief is that the complainant booked Plot No. C 436 on 31.12.2014 under investment link plan, wherein she purchased 1000 Sq. ft. @ 500/ per sq. ft. She paid all payment including registry charges of Rs. 5,30,000/-. The company is completely aggressive and violent and is not refunding the full payment with interest. Till date the project is not registered with RERA. The respondent- company has delayed in handing over the possession of the plot and failed to make necessary legal Agreement of Sale document but took full payment of the cost of plot including registry charges.

3. The respondent has not filed any reply, rather a written note of argument is filed stating therein that the instant complaint petition is not maintainable before RERA and it is not supported by any affidavit. Thus, the same is defective and without any supporting affidavit. The dispute in the project in question is of the year 2014, which is prior to commencement of the RERA Act. The project is not registered with RERA and falls outside the planning area as notified by the State of Bihar. Thus, there is no competent Authority to sanction the project in

question. The RERA, Bihar vide order dated 03.05.2018 had come up with an order/ notice making it mandatory for the projects falling outside the Planning Area to be registered with RERA, Bihar. The said order dated 03.05.2018 was challenged before the Hon'ble High Court, Patna vide CWJC No. 10827 of 2022, wherein, vide order dated 18.12.2023, the Hon'ble High Court, Patna was pleased to stay the operation of order dated 03.05.2018. Whereas, the said stay order is still in operation and the case is pending further adjudication before the Hon'ble Patna High Court. The instant case is being heard by the Court of Adjudicating Officer, whereas the instant case should have been heard by the Court of Authority, thus the same is not maintainable. Hence, the complaint of the complainant is to be dismissed as not maintainable.

4. Heard Shri Ishtiyaque Hussain, learned counsel for the complainant and Shri Tarun Sagar, learned counsel for the respondent. Perused the case record. It is admitted fact that the project concerned is not registered with Real Estate Regulatory Authority. It is also admitted fact that the project in dispute is of the year 2014, which is prior to the commencement of the RERA Act. It is also not denied by the Complainant that the project falls outside the Planning Area as notified by the State of Bihar, thus, there is no competent Authority to sanction the project in question and for this fact an order of the Authority dated 03.05.2018 is challenged before the Hon'ble Patna High Court and the Hon'ble Patna High Court has stayed the operation of the order dated 03.05.2018 passed by the Real Estate Regulatory Authority. The order of the Authority is as under: -

“ In the meeting held on 3rd May, 2018, the Authority decided in the interest of allottees/ consumers to exercise its powers conferred under proviso II to the Section 3(1) of the Real Estate (Regulation and Development) Act, 2016, to direct all

promoters and developers to register their real estate projects which are proposed to be developed or being developed beyond the planning area but with the requisite approval of the Local Authority in the State, with the Real Estate Regulatory Authority, Bihar.”

5. There is no doubt that the order of stay by Hon’ble High Court, Patna is in respect of the petitioner concerned in that case but that order effects other persons also who are not party of the case. The RERA Authority has jurisdiction only on those projects which are registered or ongoing project. This project does not come within the jurisdiction of RERA Authority. In such a situation, the Authority has no jurisdiction to decide the matter. The matter is being heard as Special Presiding Officer of RERA as delegated power u/s 81 of Real Estate Regulatory Authority, 2016 and as such regarding jurisdiction of this Court is not sustainable in the eye of law. There is no doubt, the respondent has not denied that he has not taken any amount, rather his plea is regarding maintainability of the case on the basis of the jurisdiction. In such a situation, the complainant is at liberty to file case before the Competent Authority for refund of the amount paid by him.

6. Considering the aforesaid facts and circumstances, this case is dismissed on the ground of maintainability.

(Vinod Kumar Tiwari)

Special Presiding Officer
RERA, Bihar