

# REAL ESTATE REGULATORY AUTHORITY, BIHAR

6<sup>TH</sup> FLOOR, BIHAR STATE BUILDING CONSTRUCTION CORPORATION LIMITED COMPLEX,  
SHASTRI NAGAR PATNA - 800023

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Before Mr S.K. Sinha, Member (Single Bench).

Case No. RERA/ CC/407/2019

M/s. Star India Construction Pvt ltd

.....Complainant/s

Vs

Mr. Shiv Narayan Yadav, Smt. Gulabo Devi, Mr. Ram Laddu Rai &  
Mr. Raj Kumar (Land Owners)

.....Respondent/s

**Project: Shiv Bhajju Vihar, Phulwarisarif, Patna.**

**Present: For the Complainant/s: Sharad Shekhar, Adv.  
Basant Kumar, Director.  
For the Respondent/s: Shatrunjay Kr Singh, Adv.  
Suryadeo Prashad, Adv.**

**23/12/2019**

## **PROCEEDING/INTERIM ORDER**

Hearing taken up. Both the parties are present. Learned counsel for the complainant has filed a supplementary affidavit along with annexure on behalf of complainant /company. He further stated that an interim order shall be passed against the respondents for not handing over clear possession of remaining plots in the said project and further, the respondents/land owners have been obstructing the promoter/complainant at the project site in free and healthy development of project in question. He also submitted that the complainant through notices had also requested from the land owners for handing over complete clear and peaceful possession of plots in the said project. Furthermore, the Ld. Counsel for the complainant has also submitted that the respondent land owners should be considered as co-promoters of this project as they have been controlling the affairs of the project since long. On the other hand, the Ld counsel for the respondents Mr. Shatrunjay Kr Singh has submitted that the Complainant/ Promoter has not been

awarding their additional share as per unregistered supplementary agreement and respondents have no role in delaying the aforesaid project.

I have heard the arguments and perused the petitions/documents filed by the parties and have also gone through the fact finding report dated 20/12/2019 submitted by the learned counsel of the Authority and Asst. Engineer.

It transpired from the perusal of the report and photos submitted by the fact finding committee dated 20/12/2019 which prima-facie shows that respondents have not handed over the full peaceful possession of the aforesaid project land to the complainant/promoter for timely completion of the said project till date. Further, the respondents have also encroached/captured the project land by letting out some part of the parking area of the said project to someone else, who uses that parking area as cotton godown. Furthermore, the complainant/promoter has invested huge amount in building material which are lying unused due to obstruction created by the respondents and due to which complainant is unable to use building material in the construction of project since long and construction/structure has been completed approx. 75% of the project and many allottees have booked the flats.

Therefore, keeping in view the fact finding report, circumstances and facts of this case and the submission of the learned counsels for the parties and in the interest of justice this Bench deems it necessary for issuance of interim orders against the respondents/co-promoters under Section 36 to be read along with Section 34 (a) & Section 37 of the Real Estate (Regulation & Development) Act, 2016.

It is therefore, directed to the respondents /co-promoters not to create any type of nuisance, obstruction and coercion at the project site in the development of project. The respondents concerned have further been directed to give full and peaceful possession of the project land as per the development agreement/Map to the promoter within 48 hours of issuance of this order to protect the interest of the allottees. Respondents are further directed to cooperate with the promoter of this project until final order. On the other hand, promoter/complainant is directed to complete the aforesaid project as soon as possible and adhere with the Real Estate (Regulation and Development) Act, 2016.

It is further directed to the Sr.SP, Patna and local police authorities of Phulwarisarif area (P.S. Gardanibagh) to take necessary action against the respondents in case of any unlawful activities by them at the project site.

IT Consultant has been directed to upload a copy of this order on the Authority's website.

Let the next date of hearing be fixed on 09/01/2020.

Sd/-

(S.K. Sinha)

**Member**