**REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR**
**Before the Full Bench of Mr. Naveen Verma, Chairman.**
**Mrs. Nupur Banerjee & Mr. S. D. Jha, Members.**

**RERA/CC/518/2022**

**Sunil Singh and Others .....Complainants**

**Vs.**

**M/s RD Eco Developers Pvt. Ltd. .....Respondent**

**Project: Ram Swaroop Apartment**

**O R D E R**

**10.01.2024:** This matter was last heard on 20.12.2023 and reserved for Order on 10.01.2024.

Both the parties have filed affidavits in compliance of the Interim Order dated 8/9-11-2023.

The promoter has stated on oath that six flats were in the share of complainant no. 1 and 2 which were purchased by entering into Share Distribution Agreement dated 10.11.2020 and six flats were in the share of complainant no. 3, 4 & 5 which were purchased by entering into Distribution Agreement dated 10.11.2020.

The complainants have stated on affidavit that they are entitled to 18 flats and that the respondent has entered into Agreement for Sale for Flat Nos. 102, 402,105,205,311 and 409 (total six flats) which were in the share of the complainants. The complainants have also stated that that the respondent had earlier requested for time to mutually settle the matter and has never stated that the share of the land owners has been acquired by the respondent.

The complainants have raised a number of questions about the genuineness of the share distribution agreement for which the respondent is claiming 12 flats in the share of the complainants and also has raised some issues about the manner and legality of the transactions.

The complainants have also filed a copy of the proceeding of the Title Suit No.455/2023 pending before the Sub-Judge, Danapur and filed Complaint Case before the ACJM, Danapur bearing No. 1413/2023.

The Authority recalls its Interim Order dated 08/09.11.2023 in which it was stated that the issues raised by the parties would need to be adjudicated by a competent Civil Jurisdiction.

The Authority also observes that the matter has been considered by it as per Regulation 6 of Bihar RERA Regulations as amended in 2022 and accordingly the land owner has been treated as an allottee in this case.

The Authority notes that as per Rule 36(2) of the Bihar Real Estate Regulation and Development Rules, 2017, it shall follow

summary procedure for inquiry for the purposes of deciding any complaint.

The Authority also observes that the direction of possession flows from the proviso of Section 18 (1) read with Section 19(3) of the RERA Act, 2016. The Authority is expected to pass orders regarding possession but such directions are given when the allotment/ ownership is not undisputed. The statute does not provide for detailed inquiry adducing evidence on the points raised by the parties.

The Authority further observes that the complainant has already filed Title Suit before the learned Sub-Judge, Danapur.

The Authority also observes that Section 79 of the Act specifically mentions that Civil Court shall have no jurisdiction to entertain any suit or proceeding in respect of a matter that the Authority is assumed to determine and no injunction shall be granted by the Courts. However, in this specific matter since the allotment has been disputed, the parties are at liberty to move before the Civil Court and get the appropriate relief/order.

With these observations the matter is disposed of.

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| Sd/- | Sd/- | Sd/- |
| **(S. D. Jha)** | **(Nupur Banerjee)** | **(Naveen Verma)** |
| Member | Member | Chairman |

SPS