

West Bengal Real Estate Regulatory Authority  
Calcutta Greens Commercial Complex (1<sup>st</sup> Floor)  
1050/2, Survey Park, Kolkata- 700 075

Complaint No. WBRERA/COM000331

Soumyadipta Datta. .... Complainant

Vs

Bengal Shelter Housing Development Limited..... Respondent

Sl. Number and date of order	Order and signature of the Authority	Note of action taken on order
02 28.06.2024	<p>Complainant is present in the online hearing filing hazira through email.</p> <p>Advocate Subhro Kanti Roy Chowdhury is present on behalf of the Respondent in the online hearing. He is directed to send his hazira and vakalatnama through email to the Authority immediately after the hearing.</p> <p>Heard both the parties in detail.</p> <p>The Complainant stated at the time of hearing that by inadvertent mistake he has recorded the name of the Respondent as 'Mangalya Nirman Private Limited' at the time of filing online Complaint but actually the name of the Respondent will be 'Bengal Shelter Housing Development Limited'.</p> <p>He prayed before the Authority for necessary correction in this regard.</p> <p>Considered and granted the prayer of the Complainant.</p> <p>Let name of the Respondent be rectified and recorded as '<b>Bengal Shelter Housing Development Limited</b>' in place of 'Mangalya Nirman Pvt. Ltd.'. Henceforth, in all the records of this matter this rectification shall be reflected.</p> <p>As per the Complaint Petition, the project named '<b>Teen Kanya</b>' of the Respondent Company initiated in the year 2007 and at the time of allocation to the Complainant (January, 2012), this was supposed to be handed over by year 2013. However, despite extensive follow up, persuasion the flat (<b>Teen Kanya Banalata 5A</b>) has not been handed over even in July'2023 by the Respondent-Builder. Reason provided for stoppage/suspension of work in last 10 years is 'Shortage of Funds'. Importantly, no payment demand is due to pay to the Respondent-Builder, only the last payment milestone at the time of handover is to be paid as per the Agreement.</p> <p>The Complainant prays before the Authority for the relief of ensuring handover of the possession of the flat at the earliest or full refund of the Principal Amount alongwith statutory interest.</p> <p>Advocate of the Respondent stated that a Writ Petition is pending</p>	

regarding this matter in the Hon'ble High Court at Calcutta bearing no. W.P. no. 201(W) of 2014 (Dipak Kumar Mondal & Ors. Vs State of West Bengal & Ors.) and the present Complainant is a party to the said Writ Petition, therefore, this matter is not maintainable before the WBRERA Authority. If this Complaint petition is admitted for hearing then there will be multiplicity of suits / cases with self-same cause of action which is against the public policy.

In reply Complainant stated that the case is pending before the Hon'ble High Court for a long time. He is not getting any information regarding the present status of the case. Therefore, for getting relief he has submitted this Complaint Petition.

After hearing both the parties, before admitting this Complaint Petition, the Authority is of the considered opinion that submission of both the parties required to be taken on Notarized Affidavit on the ground of maintainability of this Complaint Petition. Therefore this Authority is pleased hereby to give the following directions:-


- a) The Complainant is directed to submit his submission regarding the maintainability of this Complaint Petition before this Authority also stating that whether he is a party to the above mentioned Writ Petition and present status of the Writ Petition on a Notarized Affidavit annexing therewith notary attested /self-attested supporting documents and a signed copy of the Complaint Petition and send the Affidavit (in original) to the Authority serving a copy of the same to the Respondent, both in hard and soft copies, within **45 (forty-five)** days from the date of receipt of this order of the Authority by email.
- b) The Respondent is hereby directed to submit his Written Response on Notarized Affidavit regarding the maintainability of this Complaint Petition, and stating specifically stating the present status of the Writ Petition, as mentioned above, and present status of the construction of the project named '**Teen Kanya**', also stating that whether the Respondent is giving the **Quarterly Update** of present status of the project in the WBRERA website time to time as per section 11 of the RERA Act, 2016 annexing therewith notary attested/self-attested copy of supporting documents, if any, and send the Affidavit (in original) to the Authority serving a copy of the same to the Complainant, both in hard and soft copies, within **15 (fifteen)** days from the date of receipt of the Affidavit of the Complainant either by post or by email whichever is earlier.

Fix **10.09.2024** for further hearing and order.

  
(BHOLANATH DAS)

Member

West Bengal Real Estate Regulatory Authority

  
(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority