

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/COM000146

Navin Kumar Singh ..... Complainant

Vs.

Bengal Shelter Housing Development Ltd..... Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
03 02.11.2023	<p>Advocate Saptarshi Mukherjee (Mob. No. 7980197016, email Id- saptarshi.mukherjee@foxandmandal.co.in) and Advocate Aman Agarwal are present in the online hearing on behalf of the Complainant filing hazira and vakalanama through email.</p> <p>Advocate Subhro Kanti Roy Chowdhury is present in the online hearing on behalf of the Respondent, filing hazira and vakalatnama through email.</p> <p>The Complainant submitted a notarized affidavit dated 19.09.2023, containing his total submission regarding this Complaint Petition, as per the last order of the Authority dated 31.08.2023, which has been received by this Authority on 21.09. 2023.</p> <p>Let the said affidavit of the Complainant be taken on record.</p> <p>The Respondent submitted a Written Response on notarized affidavit dated 19.10.2023, as per the last order of the Authority dated 31.08.2023, which has been received by this</p>	

Authority on 30.10.2023.

Let the said Written Response of the Respondent be taken on record.

Heard both the parties in detail.

The Complainant stated at the time of hearing that although a case is pending before the Hon'ble High Court at Calcutta bearing W.P. No. 201(W) of 2014 (Dipak Kumar Mandal & Ors. Vs. the State of West Bengal and Ors.) which has been filed before the Hon'ble High Court on 06.01.2014 i.e. before the enforcement of the RERA Act and W.B. RERA Rules in the State of West Bengal and the said matter is pending at present before the Hon'ble High Court at Calcutta.

As per the Complainant, the provision contained in section 88 of the Real Estate (Regulation and Development) Act, 2016 provides that, - the provision of the said Act shall be in addition to, and not in derogation of, the provision of any other law for the time being in force. Therefore as per the Complainant, this Complaint Petition is very much maintainable before this Authority although a case is pending before the High Court with the self-same matter.

Respondent stated at the time of hearing that, as a matter is pending before the Hon'ble High Court, with the self-same cause of action, a new Complaint Petition is not maintainable before the WBRERA Authority. If this Complainant Petition is allowed then there will be multiplicity of suits/cases with self-same cause of action which is against the public policy.

After hearing of both the parties through online hearing and after thorough examination of the notarized affidavits and authenticated documents submitted by both the parties, the Authority is of the considered view that the present matter is not

maintainable as W.P. No. 201 (W) of 2014 (Dipak Kumar Mandal & Ors. Vs. State of West Bengal & Ors.) is pending before the Hon'ble High Court at Calcutta with the self-same cause of action. With the same cause of action a new Complaint Petition cannot be entertained otherwise there will be multiplicity of suit/cases with self-same cause of action which is against public policy.

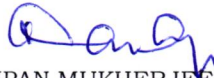
The Complainant is directed to either proceed with the case pending before the Hon'ble High Court or he may withdraw the case from the said Court with the permission of the Hon'ble High Court.

This Authority will allow this Complaint Petition, if Hon'ble High Court at Calcutta give necessary direction in this regard.

With the above directions the matter is hereby dismissed on the ground of non-maintainability.

The Complainant is given liberty to file afresh a new Complaint Petition, if Hon'ble High Court directs to do so or if he withdraw the case from the Hon'ble High Court with the necessary permission of the said High Court.

Let copy of this order be served to both the parties through speed post and also by email immediately.



(SANDIPAN MUKHERJEE)  
Chairperson

West Bengal Real Estate Regulatory Authority



(BHOLANATH DAS)  
Member

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)  
Member

West Bengal Real Estate Regulatory Authority