

FORM 'J'
See rule 36(1)

COMPLAINT TO AUTHORITY
Complaint under section 31 of the Act

For use of Authority(s) office :

Date of filing : 10/7/2020

Date of receipt by post : _____

Complaint No. : COM000519

Signature : _____

Authorized Officer : _____

IN THE HOUSING INDUSTRY REGULATORY AUTHORITIES OFFICE

Calcutta Greens Commercial Complex (1st Floor), 1050/2, Survey Park, Kolkata-700075

Between

Uttam Dey Complainant(s)

And

1. Kajal Chatterjee Proprietor of Sibaya Construction 2. M/s Sibaya
Construction Respondent(s)

Details of claim :

1. Particulars of the complainant(s) :

- (i) Name of the complainant : Uttam Dey
- (ii) Address of the existing office / residence of the complainant :
- (iii) Address of the service of all notice : Uttam Dey
D 1602 Apex Acacia Valley Sector -3
Vaishali , Ghaziabad, UP-201010

2. Particulars of the respondents:

- (i) Name(s) of the respondent : 1. Kajal Chatterjee Proprietor of Sibaya Construction 2. M/s Sibaya Construction
- (ii) Office address of the respondent : 270 Sodepur Road PS- Haridevpur kolkata-700082 , 371, Kalipur Extn ,PS- Haridevpur, Kolkata-700082
- (iii) Address for service of all notices : 270 Sodepur road Ps- Haridevpur Kolkata-700082
371 kalipur Extn Ps- Haridevpur Kolkata-7000782

3. Jurisdiction of the Authority : kolkata

4. The complainant declares that the subject matter of the claim falls within the jurisdiction of the Authority. Facts of the case:

- A) The Complainant along with his two brothers namely Chandan Dey and Goutam Dey entered into a Development Agreement with the Respondent by demolishing one old two storied building situated at 31/29, Kalipur Kuntcha Road, Kolkata-700082 within local limit of KMC Ward No. 122 for erecting a G+III storied building thereon. Power of Attorney executed in favour of the Respondents and the Development Agreement both were registered on 03.09.2012 by A.D.S.R., Behala, South 24 Parganas.
- B) On Receipt of Sanctioned Plan, G+III storied building was constructed with 9 nos. of flats and 6 nos. of Shops violating the sanctioned plan garage spaces were converted to shop rooms without authority of owners/KMC.
- C) By a letter dated 30.06.2014 the Respondents handed over the Possession of the Owners' allocated portion to the Complainant who under protest took over the possession as C.C./O.C. was not obtained from KMC, one flat measuring 450 sq.ft. on the second floor AND jointly with other two owners a flat measuring 640 sq.ft. on Second Floor AND undivided 40% of car parking space including shop room in ground floor at newly constructed premises..
- D) Due to violation of KMC Sanctioned Plan and the term and Development Agreement, Chandan Dey revoked the POA by a registered Deed of Revocation dated 3rd July, 2014 and advised Respondent by letter dated 15.07.2014.
- E) After revocation of POA the Respondent Kajal Chatterjee sold some shops and flats by signing as Constituted Attorney for the owners although no CC was obtained by him from KMC and he grabbed the consideration money for his own use and benefit. The Complaint issued a notice dated 30-07-2020 through his Advocate asking (a)

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whether the project was registered under HIRA and obtained the Licence, (b) to provide Completion Certificate from KMC, (c) to Pay back proportionate consideration money with interest @ 10% p.a. for such unauthorized transfers.

(give a concise statement of facts and grounds for complaint)

5. Relief(s)

In view of the facts mentioned in paragraph 4 above, the complainant prays for the following relief(s) :

In view of the facts mentioned in paragraph in 4 above, the Complainant pray for the following relief (s)

- (a) Directing respondents to produce the Registration No. and date for registration of real estate project with Real Estate Regulatory Authority U/s 3 of WBHIRA Act, 2017.
- (b) To supply the authenticated copy of the Completion Certificate/Occupancy Certificate of KMC as well as the copy of Sanctioned Plan of the Building.
- (c) To allocate specifically the 1/3rd share of flat measuring 640 sq.ft. on the 2nd floor and undivided 40% share of Car Parking Space at ground floor.
- (d) To refund the proportionate consideration money of Rs. 20 lakhs being sale proceeds of flat No. 8 to one Biswajit Chakraborty son of Late Madhusudan Chakraborty transferred, conveyed, in the names of the owners, including interest @ 12% p.a. from 17.06.2015 till date of final payment.
- (e) Litigation cost as your Honour would deem fit and proper

(Specify below the relief(s) claimed explaining the grounds of relief(s) and the legal provisions (if any) relied upon)

6. Interim order, if prayed for:

1) Interim Order

Pending final decision on the complaint the complainant seeks issue of the following interim order:-

Stay order for stoppage of all sorts of sales/transfers of flats/shops/garages/ parking spaces lying and situated at the said G+III newly constructed building No. 31 Kalipur Road, Kolkata-700082 within KMC Ward No. 122, P.S. Haridevpur by way of Deed of Conveyance/Gift etc.

2) The Complainant further declares that the matter regarding which this complaint has been made is not pending before any court of law or any other authority or any other Tribunal.

Pending final decision on the complaint the complainant seeks issue of the following interim order:

N/A

(Give here the nature of the interim order prayed for with reasons)

7. Complainant not pending with any other court, etc:

N/A

The complainant further declares that the matter regarding which this complaint has been made is not pending before any court of law or any other authority or any other tribunal(s).

8. Particulars of bank draft in respect of the fee in terms of sub-rule (1) of rule 36:

(i) Amount : 1000

(ii) Name of the bank on which drawn : BillDesk Online Payment

9. List of enclosures :

(Specify the details of enclosures with the complaint)

Advocate Letter

certificate of registration

Deed of revocation

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Development agreement

Development agreement 2

General power of attorney

Owner allocation

Verification

I Uttam Dey son / daughter of Late Netai Dey the applicant do hereby verify that the contents of paragraphs (1 to 7) are true to my personal knowledge and belief and that I have not suppressed any material fact(s).

Place: KOLIKATA-

Date: 10.10.2020.

**Uttam
Dey**

Digitally signed
by Uttam Dey
Date: 2020.10.10
11:35:50 +05'30'

Signature of the applicant(s)

VAKALATNAMA

Before the Housing Industry Regulatory Authority, Kolkata

Complaint under section 31 of the Act & Rule 36(1)

No- COM 000519 , Dated 07/10/2020

Uttam Dey

D-1602, Apex Acacia Valley, Sector -3 Vaishali, Ghaziabad UP-201010

Petitioner

Versus

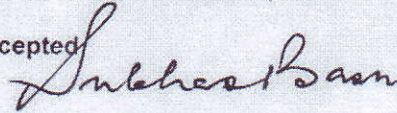
1. **Kajal Chatterjee, Proprietor, M/S Sibaya Construction**
270 Sodepur Road, PS- Haridevpur, Kolkata-700082
371 Kalipur Extn PS- Haridevpur ,Kolkata-700082
2. **M/s Sibaya Construction**
270 Sodepur Road, PS- Haridevpur, Kolkata-700082
371 Kalipur Extn PS- Haridevpur ,Kolkata-700082

Respondent


We the do hereby appoint and retain **SHRI Subhas Basu Advocate & HITENDRA PRAMANIK ADVOCATE**, to act and plead for us in the above matter and on our behalf to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein and application for receive money on our behalf in the said matter and in applications for review, and to represent us and take all necessary steps on our behalf in the above matter and also to compromise the above matter on such terms and conditions as the said advocate (s) may think just and proper in our interest The said Advocate (s) When they are unable to remain present for any reasons will be entitled to give proxy to any Advocate (s) of their choice. We agree to rectify all acts done by the aforesaid Advocate (s) in pursuance of this authority.

Dated this the 7th October ,2020

Accepted



Subhas Basu, Advocate,
Purbachal Abasan , Cluster -VIII, Flat , M-1
Salt Lake City Kolkata-700097
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Mob:8240131565
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Mobil : 9830596804
E-mail : zicooli@yahoo.co.in

Signature of petitioner

1. **Uttam
Dey**

Digitally signed
by Uttam Dey
Date: 2020.10.10
11:38:37 +05'30'