





## 2. Particulars of the respondents:

(i) Name(s) of respondent:

Emami Realty Limited

(ii) Office address of the respondent:

Acropolis, 13<sup>th</sup> Floor1858/1, Rajdanga Main Road, Kasba,  
Kolkata-700107

(iii) Address for service of all notices:

Same as above

(iv) Contact details (Phone/Mobile/e-mail): 9133661362386240

sales@emamicity.com

(v) Registration number and address of the project:

## 3. Jurisdiction of the Adjudicating Officer:

The applicant declares that the subject matter of the claim falls within the jurisdiction of the authority.

## 4. Facts of the case:

The applicant was being approached by the respondent for buying a 4BHK Flat sometime in the year of 2016. Accordingly, an agreement was executed on 10<sup>th</sup> May, 2016 by and between one Oriental Sales Agencies (India) Private Limited (the lessor) of the first part, Emami Realty Limited, the Respondent herein (developer) of the second part and the applicant (sub-lessee) of the third part (hereinafter referred to as the 'said sub-lease agreement') for the purpose of recording the terms and conditions governing the proposed sub-lease in respect of all that flat/unit no.E1-602, on the 6<sup>th</sup> floor of Tower no.E1 of the residential segment in the housing complex to be known as "Emami City" measuring an area of about 2600 square feet, more or less, togetherwith right to park one car in the basement thereof as holding/premises no.2, Jessore Road, Kolkata - 700028 (hereinafter referred to as the 'said flat')

Emami Realty



The applicant states that upon having been entered into the aforesaid sub-lease agreement, the applicant has been allotted with the aforesaid flat for which he has made payment on various occasions as and when demanded by the respondent.

Upon having entered into the aforesaid sub-lease agreement, it was agreed that possession of completed flat will be handed over to the applicant in March, 2017 with a grace period of 9 months. However, inspite of making timely payment on several occasions as per the demand of the respondent and also as per the various terms and/or stipulations of the aforesaid sub-lease agreement, the possession of the completed flat was not handed over within the stipulated time i.e. in March, 2017. Moreover, sometimes in the year of 2019 the respondent started to demand money in spite of not handing over possession of the flat.

Under the said sub-lease agreement it was also recorded that in the event the respondent fails to complete the said flat within the stipulated time, in such event the respondent shall be entitled to a further grace period of 6 months.

In the said agreement it has been clearly stated that during the grace period of 6 months the developer i.e. the respondent herein shall be liable and the sub-lessee i.e. the applicant shall be entitled to interest on the amount paid by the sub-lessee till then at the rate of the-then prevailing SBI PLR. Failure on the part of the respondent to complete the said flat within the aforesaid grace period of 6 months would further entitled the developer i.e. the respondent herein for a further grace period of another 6 months for completing the said unfinished works during which the applicant would be entitled to claim interest on the amount paid by the applicant till then at the rate of prevailing SBI PLR plus 2%. But actually instead of March, 2017 the said project and/or flat was completed near the end of 2019 the information of which was given to the applicant only in November, 2019.

*Namini Mittal*



If, however, raises reasonable doubt regarding the fairness of the terms of the said agreement to sub-lease in which the rate of interest payable as compensation to the other party in the event of default of the party paying such interest has been changed and altered at the convenience of the respondent herein.

Consequently the applicant was not willing to continue to complete the above agreement to sub-lease due to the inordinate and inexplicable delay that has been caused in completing the said project on the part of the respondent and as such, the applicant was constrained to request the respondent to refund the amount of Rs.68,17,228/- that has been paid by the applicant to the respondent in connection with the aforesaid agreement to sub-lease, togetherwith interest @18% per annum within a period of 15 days, vide his letter of demand dated 21<sup>st</sup> November, 2019.

In view of the above facts and circumstances, the applicant most humbly prays to direct the respondent to refund the amount of Rs.68,17,228/- that has been paid by the applicant to the respondent in connection with the aforesaid agreement to sub-lease, togetherwith interest @18% per annum alongwith other consequential relief and/or reliefs as this Learned Tribunal deems fit and proper.

5. Compensation(s) sought:

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

Necessary direction upon the respondent to refund the amount of Rs.68,17,228/- that has been paid by the applicant to the respondent in connection with the aforesaid agreement to sub-lease, togetherwith interest @18% per annum alongwith other consequential relief and/or reliefs.

*Nemai Mitra*



6. Claim is not pending with any other court etc.:

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

7. Particulars of bank draft/bankers cheque/online payment in respect of the fee in terms of sub-rule (1) of rule 36:

- (i) Amount
- (ii) Name of the bank on which drawn
- (iii) Demand draft/ bankers cheque number
- (iv) Details of online payment

8. List of enclosures:

- (1) Copy of sub-lease agreement
- (2) Copy of money receipt
- (3) Copy of demand letter dated November 21, 2019

**Verification**

I, NEMAI MITRA, son of Late Bejoy Kumar Mitra, aged about 54 years, R/o 40, Aurobinda Sarani, Kolkata - 700005, the applicant do hereby verify that the contents of paragraphs 1 to 8 above are true in my best of knowledge and belief and that I have not suppressed any material fact(s).

Place: Kolkata

Date: 13.07.2020

*Nemai Mitra*

Signature of the applicant

*Identified by me  
Shannisma Kaha  
Advocate*