

**ORDER SHEET**

**WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY**

**Complaint No. COM-000031**

**Dipanwita Paul Das.....Complainant**

**AND**

**KIC Resources Ltd..... Respondent**

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
12 ----- 05.02.2021	<p>Complainant is present in the online hearing filing hazira through email.</p> <p>Learned Advocate Smt Kumkum Mukherjee representing the Respondent is also present in the online hearing filing hazira through email.</p> <p>Heard both the parties.</p> <p>Complainant submitted that he has made an application before this WBHIRA Authority as per the order of West Bengal Housing Industry Appellate Tribunal in case No. HIAT/Misc. Appeal -001/2021 with reference to complaint case No. COM-000031, requesting this Authority to treat the application in terms of section 40(2) of WBHIRA Act,2017 read with Rules 27 and 28 of the WBHRA Rules,2018 and enforce the order dated 08.04.2019 in the same manner as if it were a decree made by the Principal City Civil Court in the suit pending therein and this Authority may also send the same to the Principal Civil Court to execute the order within the local limits of whose jurisdiction, the real estate project is located i.e. before the Principal Civil Court at Howrah in the present case and pass such other orders and/or directions as this Authority may deem fit and proper.</p>	

*contd. to pg - 2*

Let the application of the Complainant dated 13.01.2021 be taken on record.

Learned West Bengal Housing Industry Appellate Tribunal in its order dated 11.01.2021 in case No. HIAT/MISC. APPEAL-001/2021 has been pleased to direct in page No. 5 and paragraph 9 of the said order that “notice is required for service upon the respondent, since the violation, complaint of, is already within their knowledge and the Respondent without complying with the same has been dragging the matter taking some other recourse as advised, which should be adequately attended to by the Authority, created under the West Bengal Housing Industry Regulation Act, 2017. Therefore, the application registered as Misc. Appeal is formally disposed of by giving liberty to the Appellant/Complainant to approach WBHIRA by an application in writing annexing a copy of this order with submission to record appropriate order as opted by the Appellant in their previous application dated 11.12.2020 and being so approached the WBHIRA shall dispose of the application by giving opportunity to the Appellant by sending the matter annexing of necessary authenticated documents as indicated in paragraph 7 of this order; in the alternative WBHIRA may execute its own order as per the provision of the law, within a period of 30 days or the application of the Appellant, whichever shall be the earlier.

Rule 28 of the WBHIRA Rules, 2018 provides as follows :

“For the purpose of sub-section (2) of section 40, every order passed by the Authority or the Appellate Tribunal, as the case may be, under the Act or the rules and regulations made there under, shall be enforced by the Authority or the Appellate Tribunal in the same manner as if it were a decree or order made by the principal civil court in a suit pending therein and it shall be lawful for the Authority or Appellate

Tribunal, as the case may be, in the event of its inability to execute the order, send such order to the principal civil court, to execute such order either within the local limits of whose jurisdiction the real estate project is located or in the principal civil court within the local limits of whose jurisdiction the person against whom the order is being issued, actually and voluntarily resides, or carries on business, or personally works for gain?

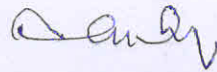
In view of the application of the Complainant dated 13.01.2021 and the order of the Hon'ble WBHIAT and as per the provision laid down in Rule 28 of the WBHIRA Rules, 2018 this Authority is of the view that as the Respondent is not complying the order even after getting several opportunities and as the Complainant requested for sending the matter to the Principal Civil Court at Howrah as per his application dated 13.01.2021, the Authority is pleased to send this order to the Principal Civil Court at Howrah that is the District Court at Howrah, to execute such order within the local limits of whose jurisdiction the Real Estate project is located.

Further, as per the direction of the Hon'ble WBHIAT in paragraph 7 of the order dated 11.01.2021 this matter is hereby sent to the District Court at Howrah for execution with all necessary authenticated document duly annexed with this matter.

Secretary, WBHIRA is directed to send this order to the Hon'ble District Judge, Howrah with a forwarding letter duly addressed to him and requesting him in this regard.

With this above direction this matter is hereby disposed of.

Communicate this order to both the parties.



(SANDIPAN MUKHERJEE)

Chairperson

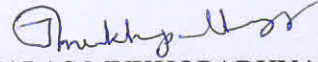
West Bengal Housing Industry Regulatory Authority



(HAR GOBIND SINGH)

Member

West Bengal Housing Industry Regulatory Authority



(TAPAS MUKHOPADHYAY)

Member

West Bengal Housing Industry Regulatory Authority