

ORDER SHEET


**WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY**

Complaint No. COM-000128 of 2019

Saptaparna Ray.....Complainant

AND

Hemont Sikaria.....Respondent

Sl. Number and date of order	Order and signature of Officer	Note of action Taken on order
<p style="text-align: center;">3</p> <p>----- 08-11-2019</p> <p>Dictated &amp; corrected by me</p> 	<p>Complainant is present.</p> <p>Respondent is represented by Ld. Advocate filing vakalatnama.</p> <p>Ld. Advocate of Respondent filed a prayer for permission to submit amended written response.</p> <p>It is noted from the record of the case that Director of Respondent Company filed a written response prayed for dismissal of the complaint petition on the ground that the Respondent is ready to hand over possession of the flat but the Complainant refused to do so. This is further noticed that Respondent is ready to refund the amount collected from the Complainant after deducting the cancellation charges in terms of the sale agreement signed between both the parties.</p> <p>The Complainant is present at the time of hearing and claimed that clause 11.3 of the sale agreement is applicable to the instant case as there are breaches on the part of seller and therefore, refund along with interest and compensation as provided under clause 11.3 are admissible to her.</p> <p>This Authority examined the submission of the Complainant and counter submissions made by the Respondent in affidavit and noticed that the only point for consideration and adjudication before this Authority is whether default clause 11.3 of the sale agreement is applicable in this case as claimed</p>	

by Complainant or clause 11.1 as claimed by the Respondent in affidavit, as both the parties admitted other the facts of sale agreement and their obligations noted therein.

After hearing both the parties and considering the material on record, this Authority considered the prayer of Respondent for filing amended written response and decided not to allow this for the reasons that the complaint petition and the documents adduced before the Authority has satisfied the requirement of Rules 36(2) of WBHIRA Rules, 2018 and there are prima facie case to proceed for adjudication of complaint petition in terms of Rule 36(2)(e) and other clauses noted therein.

Respondent is at liberty to make written submission and file evidence at the time of hearing the case on merits.

Let the statement of Complainant enclosing supporting documents evidence be taken on record.

This matter be heard on merits and recording evidence for final hearing and orders on the points of law described above or any other points of law which may be disclosed in the complaint petition or objections therein.

To 18/12/2019 for final hearing and orders.

Dictated  
& corrected  
by me



  
(ONKAR SINGH MEENA)  
Designated Authority,  
Housing Industry Regulatory Authority,  
West Bengal.