

**ORDER SHEET**

**WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY**

**Complaint No. COM-000192**

**Partha Sarathi Dutta .....Complainant**

**Swanhousing & Infra Pvt. Ltd.....Respondent**

Sl. Number and date of order	Order and signature of Officer	Note of action taken on order
4 ----- 29.01.2021	<p>Complainant is present in the online hearing filing Hazira through e-mail. Ld. Advocate Smt Binota Roy representing the Respondent is also present in the online hearing filing hazira through e-mail.</p> <p>At first, both the parties were heard on the point of the motion for leave to amend Complaint petition submitted by the complainant on 18.3.2020 before this Authority. Respondent also submitted on 20.01.2021 before this Authority a Written Objection on notarized affidavit against the motion for leave to amend Complaint petition filed by the complainant.</p> <p>Let the Written Objection of the Respondent be taken on record.</p> <p>The Respondent submitted that as the complainant has signed a possession letter at the time of delivery of possession stating that he is taking vacant and peaceful possession of Unit No.6304 to his full satisfaction and as per the Respondent by signing this possession letter the Complainant has waived all his allegations and claims against the Respondent and he is now estopped</p>	

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from claiming the compensation for delay. But this letter only signifies and proves that delivery of possession was duly executed between the parties. Imposition of other restrictions and limitations in the possession letter at the time of delivery of possession by the Respondent does not match with the direction given by the Authority in its order dated 16/01/2020. Respondent can not impose any other restrictions/limitations upon the complainant at the time of delivery of possession in the possession letter, more so, when the possession was taken as per the order of the Authority dated 16.1.2020.

After hearing both the parties on the motion for leave to amend Complaint petition, this Authority is of this view that this amendment petition can be allowed as the original complaint petition included prayers for refund of the entire amount paid by the Complainant alongwith interest, legal cost and issuance of an injunction upon the Respondent to restrain him from alienation of the said property and during hearing on 16.01.2020, both the parties agreed to complete the delivery of the possession of the flat and as per the order of the Authority dated 16.1.2020, the delivery of possession of the said property between the parties was held on 24.1.2020. Consequent to that, as compensation for delay in delivery of possession is quite incidental to it, therefore amendment prayed by the Complainant can be allowed so that complainant can include the relief for Compensation for delay in his Complaint Petition as there was a delay of few months in the delivery of possession as claimed by the Complainant.

Therefore, this Authority is hereby pleased to allow the Application for amendment petition moved by the Complainant.

The complainant is directed to submit the amendment of the complaint petition in a supplementary notarized affidavit and send it to the Authority and to the Respondent by speed post and also by e-mail, within 5 (five) days from the date of receipt of this order by e-mail.

The Respondent is directed to submit their Written Response on notarized affidavit against the supplementary affidavit of the complainant containing the Amendment petition as mentioned above within 5(five) days

from the date of receipt of the copy of supplementary affidavit of the complainant and send the Written Response to this Authority by speed post and also by e-mail, after serving a copy to the complainant.

On the next hearing date, both the parties shall be heard on the point of alleged deviations between the draft Deed of Conveyance and the Agreement for Sale and also they shall be heard on the point of delay compensation for delay in delivery of possession and other reliefs claimed by the Complainant.

As there is a direction of the Calcutta High Court in W.P.A . No-601 of 2021 that the matter shall be disposed of within 28.02.2021, therefore no adjournment shall be given in this matter and parties are directed to submit their notarized affidavits strictly within the time period as mentioned above.

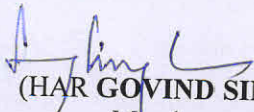
Fix 15.02.2021 for further hearing and order.



**(SANDIPAN MUKHERJEE)**

Chairperson

West Bengal Housing Industry Regulatory Authority



**(HAR GOVIND SINGH)**

Member

West Bengal Housing Industry Regulatory Authority



**(TAPAS MUKHOPADHYAY)**

Member

West Bengal Housing Industry Regulatory Authority