

PROCEEDINGS OF THE DAY

Day and Date	Friday and 08.11.2019
Complaint No.	E115/225/2018 of 2019 Case titled as Greenopolis Welfare Association Versus Orris Infrastructure Pvt. Ltd. & another
Complainant	Greenopolis Welfare Association
Represented through	Shri Vijay Budhiraja, member of Association in person with Shri Venket Rao, Advocate
Respondent	Orris Infrastructure Pvt. Ltd. & Another
Respondent Represented through	Shri J.K.Dang, Advocate for R-1 Orris Infrastructure Pvt. Ltd. Shri Dhananjai Jain and Bhoop Singh Advocates on behalf of Three-C Shelter Pvt Ltd. Mr Sanjeev Anand, Advocate for applicants M/s Delhi Brass and Metal Works (Pvt) Ltd. and Ors. with Mr.B. Parameswaran, Chief Legal Officer.
Last date of hearing	7.11.2019
Proceeding Recorded by	Naresh Kumari

Proceedings

In response to the public notice published in various newspapers, M/s Delhi Brass and Metal Works Pvt Ltd. and Ors filed an application for release of attached property bearing No.A-3a situated at District Centre, Nehru Place, New Delhi. Copies of this application has not been supplied to either of the side and the same be supplied to the other side and response to

the same be also filed by the parties with copies to the other side on or before the date fixed.

This property belongs to M/s Lavender Infra Projects Pvt Ltd. and a loan of Rs.50 crores has also been advanced against the said property by the applicants and that M/s Lavender Infra Project Pvt Ltd has provided security by way of mortgage and have also deposited title deed of this property with the applicants. Hence, they have the first right over that property. The applicants are also directed to furnish the information with regard to the directors and the shareholders of M/s Lavender Infra Projects Pvt. Ltd. and M/s Three C Shelters Pvt Ltd. and their relations with each other so as to dispose of their application effectively.

Reply to the execution petition has been filed by respondent No.1, copy of which be supplied to the complainant and respondent No.2. Regarding execution of Para-C of execution order dated 23.1.2019 and relief sought by the complainant in the execution petition in para-C of Annexure-D, counsel for the respondent No.1 made a statement that they have nothing to add more with regard to execution petition and whatsoever reply has been submitted by them on 3.10.2019 shall be treated as final.

Counsel for respondent No.1 submitted a statement of accounts of M/s Three-C Shelter Pvt Ltd. along with equity shareholders of M/s Three-C Shelters Pvt. Ltd. with regard to Account No.38164449254, SBI, Nehru Place, New Delhi. The Authority has decided to freeze this account as this account has been concealed by M/s Three-C Shelter Pvt. Ltd. from the authority and never during the proceedings in spite of several instructions did not disclose

the existence of this account and large number of transactions have been made. During pendency of the complaint's proceedings as well as execution proceedings, respondent No.2 was asked to disclose the details of their bank accounts but this detail was never disclosed and there may be other accounts also maintained by respondent No.2. If at all, there is any other account of respondent No.2, the promoter is hereby directed not to withdraw any amount from that account till proper disclosure is made to the Authority. The account under reference, a large number of transactions have taken place and there is possibility of syphoning of funds by respondent No.2, accordingly, we hereby ordered that forensic audit of this account as well as other associated accounts of respondent No.2 or any other account in which either there is an apprehension or possibility of syphoning of funds. Accordingly, authority decided to assign this task of forensic audit to a chartered accountant firm, the name of which will be given in writing by the complainant out of the approved list of such auditors. As per list of equity shareholders of Three-C Shelter Pvt Ltd, Green Bricks Holding and Innways Ventures Ltd. be also given a notice to appear before the authority as they being the share holders of the respondent No.2 are responsible for affairs of the promoter.

In spite of all efforts by the authority, the respondent No.1 has not submitted the information as mentioned in the directions dated 23.1.2019 as has also been mentioned in execution petition including the directions given in order dated 3.10.2019. The Appellate Tribunal has also held that respondent No.1 is the promoter of the project and accordingly responsible for completion of the project. This conduct of respondent No.1 needs to be made public through notification that any person interested in buying



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New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

property in their project shall keep in mind that the respondent No.1 has failed to deliver the projects in time and before investing, their litigation details be also seen. Although for this project they have not submitted registration application alongwith necessary detail mandated by the Act and authority has not having any record in the papers of this project where pending litigation details and list of projects completed in the 5 last years is available.

This Authority while passing Order dated 23.01.2019 in complaint No. 225 of 2018 has issued following directions to be complied with by the respondents.

- (a) *M/s Orris Infrastructure Pvt. Ltd. shall disclose 35% of built up units allocated to them under the development agreement and 35% saleable area in the Greenopolis project within one month to the authority so that these are put in public domain.*
- (b) *The details of land and licence cost actually incurred by M/s Orris Infrastructure Pvt Ltd. along with all supporting documents be provided to the authority so that this could be put in public domain as per requirements of law.*
- (c) *The matter regarding completion of the project, execution modalities, payment schedule, availability of funds have already been deliberated by the authority in this order, accordingly, action is to be taken by the promoters.*
- (d) *Regarding audit and investigation by an independent agency, M/s Currie & Brown and M/s Quantum Project Infra have already done*

the audit and on the finding of the financial auditor, action plan for completion of the project has been drawn.

(e) As per affidavit submitted by the promoter Three C Shelters Pvt Ltd., following schedule for completion of the project has been given:

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| <i>(i) Phase I Tower No. 15 to 31</i> | <i>31.07.2019</i> |
| <i>(ii) Phase II Tower No. 1 to 12</i> | <i>31.03.2020</i> |
| <i>(iii) Phase II Tower No. 12A, 14, 22 to 29</i> | <i>31.12.2020</i> |

Accordingly, they are directed to complete the project in compliance with the above schedule.

(f) M/s Orris Infrastructure Pvt. Ltd., being the licensee, shall get the license renewed as and when due within reasonable time and obtain other necessary statutory approvals for which statutory payment shall be made from the escrow amount.

(g) Escrow Account No. 558011059169 of the project has already been opened with Kotak Mahindra Bank, NOIDA in which sale proceeds of assets dedicated by way of an affidavit dated 08.01.2019 and 23.01.2019 by Three C Shelter Pvt. Ltd. for the project and also future collections from all sold and unsold inventories will be deposited by the promoters. The money from the said account can only be drawn for payment of construction purposes of the project and payment of EDC/IDC and other statutory dues. Money from the said account shall be drawn under the signature of both promoters or their authorised signatory following the due procedure as prescribed in the Act, rules and regulations made thereunder and after obtaining permission from the Monitoring officer.

(h) Promoters are directed to cover the 'nalla' (chemical effluent drain) flowing through the Greenopolis project at the earliest preferably

before the completion of Phase-II and certainly before the completion of the project after taking due approval from the competent authority.

- (i) The promoters are also directed to submit detail of EDC/IDC collected from the allottees in case it has been charged separately from them.*
- (j) The parties shall be at liberty to approach the authority for any clarification.*

When the respondents did not comply with the directions so issued, the complainants filed an Execution Case No. E115/225/2018 of 2019 titled as Greenopolis Welfare Association Vs. M/s Orris Infrastructure Pvt. Ltd. and another. The notice of the execution application was given to the respondents who in response to the notice, put their appearance. During the course of execution proceedings this Authority issued various directions vide orders dated 12.09.2019 and 03.10.2019 so as to get the directions complied with, but the Authority is constrained to say that the respondents not only failed to comply with the directions issued by this Authority vide order dated 23.01.2019, but also failed to comply with the directions issued during the course of execution proceedings e.g. cheques of Rs. 60 crores issued by M/s Orris Infrastructure Pvt. Ltd. were either dishonored or were not presented as the company was not keen to honour the same.

Therefore, this Authority is of the view that coercive steps are required be taken to get the directions issued vide orders dated 23.01.2019 enforced so as to generate the funds to the tune of Rs.334.05 crores for the completion

of the project in order to make it habitable and handing over to the respective allottees. Therefore, following directions are issued:-

1. Account No.38164449254, maintained at SBI, Nehru Place, New Delhi by M/s Three-C Shelters Pvt. Limited maintained by the respondent No.2 is hereby ordered to be freezed.
2. M/s Three-C Shelters Pvt. Limited is directed to disclose the details of its accounts and it is directed not to withdraw any amount from those accounts till proper disclosures is made to this authority.
3. Since M/s Three-C Shelters Pvt. Limited i.e. respondent No.2 has not disclosed its account till now, so forensic audit of its account as well as its other associated accounts or any other account in which either there is an apprehension or possibility of syphoning of funds is ordered to be audited by way of **Forensic Audit** by a Chartered Accountant firm, the name of which would be given in writing by the complainant out of the approved list of such auditors within a period of 7 days.
4. 10 acres of land, a part of the project being additional land in Sector 89, Gurugram which had been attached during the course of complaint proceedings vide orders dated 12.07.2018 to protect the interest of the home buyers has been lying at the spot. So, the same be put to auction and warrants for sale of that property be issued to District Collector, Gurugram.



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Secondly, four plots mentioned in affidavit dated 08.01.2019 given by Mr. Ravi Bhargav, an authorised signatory of M/s Three C Shelter Pvt. Ltd. were also attached by this Authority vide orders dated 03.10.2019. Except the property mentioned in the earlier part of the order and situated at Nehru Place, New Delhi, other properties situated i.e. Plot No. Sc-01/C9, measuring 8000 sq mtrs. Plot No. Sc-01/C5, measuring 20,000 sq mtrs. and Plot No. Sc-01/C1/A, measuring 16408.50 sq mtrs all situated in Sector 79, NOIDA within the revenue district of Gautam Budh Nagar, (Uttar Pradesh) be put to sale in order to raise funds to the tune of Rs.334.05 crores for the completion of the entire project and handing over possession of the units to the respective allottees. Warrants for sale of the above mentioned properties be sent to the District Magistrate/Collector of Gautam Budh Nagar as well as Chief Executive Officer, NOIDA, Uttar Pradesh.

5. The respondents are also given a period of one month from the date of this order to comply with the directions issued by this Authority vide orders dated 23.01.2019 failing which the Directors as well as Promoters/Developers of both the companies shall appear in person on 10.12.2019 to show cause as to why they be not committed to civil imprisonment as provided under Order XXI Rule 37 Code of Civil Procedure.
6. Directors, promoters and developers of both the respective companies mentioned above are also directed to disclose their



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moveable as well as immoveable assets of their respective companies as well as their personal one on an affidavit as provided under Order XXI, rule 41 CPC on or before the date fixed.


Samir Kumar
(Member)


Dr. K.K. Khandelwal
(Chairman)
08.11.2019


Subhash Chander Kush
(Member)