

**HARYANA REAL ESTATE REGULATORY AUTHORITY,  
PANCHKULA.**

**Complaint. No. 114 /2018-** Manish Kumar Sharma  
Versus  
SRS Real Estate Limited

**Date of Hearing: 04.12.2018**

**Coram: -** Shri Rajan Gupta, Chairman.  
Shri Anil Kumar Panwar, Member.  
Shri Dilbag Singh Sihag, Member.

**Appearance: -** None appeared for Complainant  
Sh. Jaswinder Singh, Counsel for Sh. Lalit Kumar.

**ORDER: -**

1. The complaint was filed before the Authority in April, 2018. The matter has been listed for hearing on FIVE different dates. On none of the dates, any authorised representative of the respondents' company appeared. The respondents' company has also not filed their written statement. Summons to the respondents were also got issued through the Jail Superintendent after hearing of the matter on 25.09.2018. On 30.10.2018 however, one Shri Vikas Kumar Sharma, an employee of the respondent company had appeared but without any written authorisation. He could not assist the Authority in any manner. Faced with the situation, the



Authority had made certain observations in its order dated 30.10.2018. The said order dated 30.10.2018 passed by the Authority shall be read as a part of this order.

2. A gist of the order dated 30.10.2018 is that the complainant has already paid certain amount of consideration; and very less construction work has been executed at the site. Directors of the respondent company are in Jail on account of various criminal charges pending against them and there is huge financial liability on the promoters. The project is not likely to be completed in the near future. In the circumstances, the complainant deserves the relief as prayed for. However, as a last effort, the matter was posted for today for final disposal and it was expected from the respondent company that it will take initiative to settle the matter amicably and file detailed reply before the Authority. The Directors of the Company, however, have neither appeared nor they have filed reply.
3. Shri Jaswinder Singh, Counsel for one Shri Lalit Kumar, an independent Director of the company appeared before the Authority. He stated that Shri Lalit Kumar was an independent Director of another company of the promoters named SRS Real Estate Ltd., from which he had resigned in the year 2017. He was never a Director in the respondent company i.e. M/S SRS Real Infrastructure Ltd. Accordingly, he requested that orders of this Authority may not be directed against him.



4. The complainant was allotted a residential 2BHK flat no. PH/2D/A/805, in "SRS Real Estate Limited" in "SRS Palm Homes", Sector 7, Palwal, Haryana vide allotment letter dated 23.04.15. The possession was promised to be delivered by the end of 2019 but the respondent company has only constructed one floor in the year 2015 and thereafter, construction has been stopped by them. The complainant has paid an amount of Rs. 7,90,989/- till date. Therefore, complainant demands refund of the money along with interest and suitable compensation.
5. The Authority observes that this matter has been heard on several dates and as the principal Directors of respondent company are in Jail, they have failed to assist the Court in this matter. Hence, the Authority decides to proceed with this matter ex-parte.

The Project is far from completion and there has been no construction since 2015. There is a little likelihood that it will be completed in the near future as the Directors of respondent company are in jail. In these circumstances, this is a stuck project and there appears little hope of its completion in foreseeable future. The Directors of the company being in judicial custody, the chances of completion of Project are very less and the Authority cannot keep the complainant waiting endlessly and compel him to wait for release of Directors from jail custody.



6. Taking into account the above facts and circumstances, the Authority observes and orders as follows:

- (i) The complainant deserves refund of amount paid by him, hence, the respondent company is directed to refund the entire amount paid to the complainant along with interest at the rate stipulated under Rule 15 of the HRERA Rules, 2017. Respondent company shall pay the entire amount within 60 days in two equal instalments of which first instalment will be paid within 30 days and the next within 30 days thereafter. The period of paying such instalments will start from the day the order is uploaded on the website of the Authority.
- (ii) It is understood that in the circumstances that the whole time Executive Directors of the respondent company are in Jail and they are facing multiple criminal proceedings, there will be a challenge in getting these orders executed. It is ordered that the appropriate mode of execution of the orders as prescribed in the RERA Act, 2016 shall be available to the complainant.


The Authority in another bunch matter with lead case **Complaint No. 383 of 2018 Gurbaksh Singh & Another Versus ABW Infrastructure Pvt. Ltd.** has passed a detailed order for protecting the interests of allottees in real estate projects which get stuck due to misdeeds of the promoters and face serious financial





difficulties. The Authority has viewed that if there are multiple claims against the assets of respondent company, the claims of the allottees shall be served first of all in preference to any other claim including the claims of the lending financial institutions or other financial creditors. The reasons for laying down this principle are contained in the aforesaid bunch matter with lead case **Complaint No. 383 of 2018**. The reasoning and logic cited in that complaint shall be applicable as it is in this case as well. Accordingly, the complainant may present this order before any appropriate Authority dealing with disposal of the assets of the respondent company for serving their claims first of all on priority.

- (iii) The order shall not be directed against Sh Lalit Kumar as he had never remained a Director in the said respondent company.

**Disposed of.** The file be consigned to the record room and the order be uploaded on the website of the Authority.

  
**Dilbag Singh Sihag**  
Member

  
**Anil Kumar Panwar**  
Member

  
**Rajan Gupta**  
Chairman