

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

Date of Hearing: 10.01.2019
4th Hearing

1. Complaint.No.388/2018 Aditya Bhargava ...complainant

Versus

Piyush Buildwell Pvt Ltd ...Respondent

2. Complaint.No.386/2018 Harsh Arora ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

3. Complaint.No.389/2018 Deepak Kumar ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

4. Complaint.No.390/2018 Khushboo ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

5. Complaint.No.391/2018 Ved Prakash Goyal ...Complainant


Versus

Piyush Buildwell India Ltd. ...Respondent

6. Complaint.No.393/2018 Sunit Kumar ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent



7. **Complaint.No.394/2018** Kunwar Chand Sharma ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

8. **Complaint.No.395/2018** Aman Monga ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

9. **Complaint.No.396/2018** Akhil Paul ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

10. **Complaint.No.397/2018** Babli Ram ...Complainant

Versus

Piyush buildwell India Ltd. ...Respondent

11. **Complaint.No.398/2018** Harish Kumar ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

12. **Complaint.No.399/2018** Mukesh chandar Jain ...Complainant

Versus

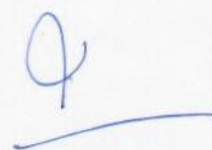
Piyush Buildwell India Ltd. ...Respondent

13. **Complaint.No.400/2018** Jitendra Kumar ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

- 14. Complaint.No.401/2018** Karan Singh ...Complainant
Versus
Piyush Buildwell India Ltd. ...Respondent
- 15. Complaint.No.402/2018** Vandana Brar ...Complainant
Versus
Piyush Buildwell India Ltd. ...Respondent
- 16. Complaint.No.403/2018** Raj Narain Rai ...Complainant
Versus
Piyush Buildwell India Ltd. ...Respondent
- 17. Complaint.No.404/2018** Pramod Aggarwal ...Complainant
Versus
Piyush Buildwell India Ltd. ...Respondent
- 18. Complaint.No.405/2018** Santosh Kumar Rai ...Complainant
Versus
Piyush Buildwell India Ltd. ...Respondent
- 19. Complaint.No.406/2018** Hemant Raheja ...Complainant
Versus
Piyush Buildwell India Ltd. ...Respondent
- 20. Complaint.No.407/2018** Puran Devi Asija ...Complainant
Versus
Piyush Buildwell India Ltd. ...Respondent



21. Complaint.No.408/2018 S K Jain ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

22. Complaint.No.409/2018 Sandip Dass ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

23. Complaint.No.410/2018 Vipin Kumar Aggarwal ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

24. Complaint.No.411/2018 Sunita Kumari ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

25. Complaint.No.412/2018 Manjula Dilwali & Rajat Dilwali
...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

26. Complaint.No.414/2018 Manjula Dilwali & Rajat Dilwali
...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

27. Complaint.No.415/2018 Poonam Bagai ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

28. Complaint.No.416/2018 Sipra Raheja Seth & Another ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

29. Complaint.No.417/2018 Hemlata Agnihotri ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

30. Complaint.No.418/2018 Madhavi Chadha ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

31. Complaint.No.419/2018 Rehanullah Khan ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

32. Complaint.No.420/2018 Saket Mahadani & Payal Mahadani ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

33. Complaint.No.433/2018 Subhadeep Samant & Priyanka Ghosh
Samanta ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

34. Complaint.No.434/2018 Jasmeet Singh Bhatia ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

35. Complaint.No.436/2018 Prachi Sharma ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

36. Complaint.No.515/2018 Puneet Kashyap ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

37. Complaint.No.521/2018 Priti Saxena ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

38. Complaint.No.546/2018 Rajesh Mittal ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

39. Complaint.No.547/2018 Rashmi Ranjan Mallick ...Complainant

Versus

Piyush Buildwell India Ltd. ...Respondent

Complaints no-

388,386,389,390,391,393,394,395,396,397,398,399,400,401,402,403,404,405,406,407,408,409,410,
411,412,414,415,416,417,418,419,420,433,434,436,515,521,546,547,556,586,595,596,597,862,863,
971/2018

- 40. Complaint.No.586/2018** Anupam Srivastava & Another ...Complainant
Versus
Piyush Buildwell India Ltd. ...Respondent
- 41. Complaint.No.595/2018** Kamla ...Complainant
Versus
Piyush Buildwell India Ltd. ...Respondent
- 42. Complaint.No.596/2018** Debasis Bose & Another ...Complainant
Versus
Piyush Buildwell India Ltd. ...Respondent
- 43. Complaint.No.597/2018** Ankit Garg ...Complainant
Versus
Piyush Buildwell India Ltd. ...Respondent
- 44. Complaint.No.862/2018** Ashok Sharma ...Complainant
Versus
Piyush Buildwell India Ltd. ...Respondent
- 45. Complaint.No.863/2018** Naresh Kumar Jain ...Complainant
Versus
Piyush Buildwell India Ltd. ...Respondent
- 46. Complaint.No.971/2018** Bharat Bhushan ...Complainant
Versus
Piyush Buildwell India Ltd. ...Respondent
- 47. Complaint.No.556/2018** Anurag Gupta ...Complainant
Versus
Punit Goyal ...Respondent



Coram: -

1. Shri. Rajan Gupta, Chairman
2. Shri. Dilbag Singh Sihag, Member

Appearance: -

1. Sh. Amar pal, Ms. Vaishnavi Iyer, Srishti, Lakshay, Counsels for the Complainant
2. None for Respondent

Order:

This matter had earlier come up for hearing three times on 09.10.2018, 13.11.2018 and 05.12.2018. The respondents despite service of notice have neither appeared nor filed their reply. Accordingly, the matter is being proceeded against them ex-parte. The detailed facts of the matter have been captured in the earlier orders passed this Authority. Broad direction of resolution of this matter is that the project in question is proposed to be handed over to the Association of Allottees in exercise of the powers vested in this Authority under Section 8 of the RERA Act.

2. Shri Amar Pal and his associate lawyers, in compliance of the earlier directions passed this Authority, have submitted as follows: -

- (i) All the forty-six complainants who are before the Authority today along with seven other complainants whose cases are listed on other dates along with thirty-eight other non-complainant allottees have formed an association named "Piyush Heights Resident Tower J and K Welfare

Association". They have got themselves registered with Registrar of Societies under the Haryana Registration and Regulation of Societies Act,2012 and a certificate in this regard has been issued by the department concerned vide order dated 20.12.2018. A copy of the same has been placed as Annexure C-1.

- (ii) All the fifty-three complainants who have filed complaint before this Authority have filed individual affidavits for withdrawing the individual complaints and with a request to subsume their complaints with a fresh complaint filed by their association vide complaint No.89 of 2019. They have prayed that the individual complaints may be allowed to be withdrawn with a liberty to subsume their previous complaints with the fresh complaint No.89 of 2019. Certain amendments were proposed in the affidavit by the learned counsel. It was allowed that amended affidavits also would be filed on the next date of hearing.
- (iii) The association has opened a bank account in Canara Bank, Faridabad bearing account No.6479101001941. A copy of the bank account details has been submitted.

- (iv) Learned counsel Shri Amar Pal further stated that there are one hundred and forty-four apartments in tower J & K out of which ninety-one allottees have formed the Association. They are already in touch with another twenty-five allottees who may be joining the association in the coming days. Further, they have not been able to find out whether rest of the vacant apartments have been allotted or not. He requested that in case of these apartments are un-allotted, an embargo may be imposed prohibiting the allotment of those apartments by the developer.
- (v) A statement of accounts in respect of each of the ninety-one allottees who are members of the association has been furnished as Annexure C-III. Affidavit of willingness of the members for paying the remaining amount has also been submitted.
- (vi) The members of the Association are working for calculation of the expenditure required to be incurred for execution of remaining works in tower J & K. They will submit the detailed estimate on the next date of hearing.
- (vii) It has been prayed by the learned counsel that a direction should be issued to the Town & Country Planning Department



to extend validity of licence in respect of tower J & K of the project and also for furnishing information relating to the EDC, IDC dues in respect of J & K tower.

(viii) In the end, learned counsel submitted that 80-90% work in all the towers has already been done and remaining work will be done by the association. The Association would require support and assistance of the Town & Country Planning Department. It also requested that the department should invoke bank guarantee furnished by the respondents and the money required to be spent towards infrastructure of the project should be released to the association for completion of the work at the risk and cost of the respondents. He, however, stated that the Association is not getting any response from the department.

3. After hearing the arguments of the learned counsel, this Authority orders as follows: -

(i) All the captioned fifty-three complaints are hereby disposed of as withdrawn and the proceedings of each of the complaint carried out so far stands subsumed into the fresh complaint No.89 of 2019 filed by the association of the allottees.

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- (ii) The association shall try and contact every non-complainant allottee of tower J & K and secure their consent to become a part of the association.
 - (iii) In case some apartments are found to be not allotted, they should be grouped together in one of the towers and further construction work in those apartments may not be done by the association except to the extent necessary for operationalising infrastructure etc. of that tower. The respondents are hereby stopped from allotting vacant apartments to any new or existing allottee in Towers J and K.
 - (iv) A detailed project report showing therein the list and quantum of works yet to be carried out and the likely expenditure therein should be prepared at the earliest and placed before this Authority.
 - (v) A token amount of Rs.10000-15000 should be contributed by each member of the Association for putting into the Escrow account to be operated by the Association. From this token contribution initial expenditure could be incurred.
 - (vi) Director, Town & Country Planning Department must cooperate, support and help the Association for getting their apartments completed. It is obvious that the respondent
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company has failed to discharge their responsibilities. Lot of infrastructure expenditure is yet to be incurred especially in tower J & K. It appears fair and just to invoke the bank guarantee furnished by the respondent company. The money to be realised should be kept by the department with itself in a separate account. As per the project report to be prepared by the Association, whatever expenditure is likely to be incurred for providing infrastructure facilities, the same should be allowed out of the money realised by invoking the bank guarantee.

(vii) Director, Town & Country Planning Department should also issue categorically instructions to the Senior Town Planner and District Town Planner to fully cooperate with the association to enable them to complete the work.

(viii) At this stage the Authority also consider its appropriate to give a direction to the Director, Town & Country Planning Department not to treat the association of the allottees as a licensee to be held liable to pay any dues to the department which otherwise are payable by the developer. The department should recover all such dues from the respondent company and not from the resident's Association. An appropriate statement containing detailed position in this regard




should be placed by the DTCP before the Authority on the next date of hearing.

4. The Authority observes that in one of the matters pending against the respondent company service of notice has been effected through the Jail Superintendent of the Jail in which the directors of the respondent company have been locked up. A copy of this order as well as all the previous orders should be served upon the Directors through the Superintendent Jail by deputing process servers of this Authority. A copy of these orders along with copies of the earlier orders should be sent to Director, Town and Country Planning Department, Haryana for necessary action on the given directions.

Adjourned to 12.02.2019.


Dilbag Singh Sihag
Member


Rajan Gupta
Chairman