



REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Single Bench of Hon'ble Chairman Mr. Vivek Kumar Singh,
RERA, Bihar.

RERA/Exe/180/2025

RERA/CC/08/2025

Malvika Singh

.... Executant/Complainant

Vs

M/s Bhootesh Construction Pvt. Ltd.

....Respondent

Project: **PRAKRITI VIHAR**

Present: For Complainant: None

For Respondent: None

25.06.2026

ORDER

1. Hearing taken up. No one is present on behalf of either party.
2. From perusal of the record it is apparent that in spite of the most of coercive measures permissible under the civil proceedings have already been enforced but has not brought about any positive response from the respondents.
3. This Authority is conscious that proceedings under the RERA Act are regulatory, adjudicatory and compensatory in nature. At the same time, it is equally well settled that the existence of a civil, contractual or statutory remedy does not exclude recourse to criminal law where the facts disclose the ingredients of a cognizable offence.
4. The Hon'ble Supreme Court in Prof. R.K. Vijayasathay v. Sudha Seetharam(2019) and Mitesh Kumar J. Shah v. State of Karnataka (2021) has reiterated that criminal proceedings are maintainable notwithstanding the availability of civil remedies where the allegations disclose elements of criminality. Equally, the Court has cautioned that every breach of contract or failure to honour a promise does not amount to cheating unless there existed dishonest or fraudulent intention at the inception of the transaction.
5. Similarly, in Delhi Race Club (1940) Ltd. v. State of Uttar Pradesh (2024), the Hon'ble Supreme Court reiterated the distinction between a mere contractual dispute and conduct constituting a criminal offence, while affirming that criminal law may be legitimately invoked where the requisite statutory ingredients are disclosed.

6. Therefore, while mere non-compliance of a RERA order may not, by itself, constitute an offence under the Bharatiya Nyaya Sanhita, 2023, the complainant cannot be deprived of the right to invoke criminal law if the facts and material available indicate circumstances such as:
 - a. Fraudulent inducement at the inception of the transaction;
 - b. False or misleading representations regarding title, approvals, permissions, sanctions, delivery schedule or project status;
 - c. Collection of monies from allottees despite knowledge of inability or unwillingness to perform the promised obligations;
 - d. diversion, siphoning, misappropriation or unauthorized utilization of funds entrusted for the project;
 - e. multiple allotments, double sales or creation of conflicting rights in respect of the same unit or property
 - f. concealment of material facts affecting the rights of allottees; or
 - g. any other conduct attracting offences punishable under the Bharatiya Nyaya Sanhita, 2023.
7. In the peculiar facts of the present case, the continued non-appearance of the Respondent, persistent disregard of statutory proceedings, and failure to comply with the order of this Authority have deprived the complainant of effective realization of the relief granted. Such conduct may, depending upon the underlying facts and evidence available to the complainant, warrant examination by competent law-enforcement authorities from the standpoint of offences relating to cheating, criminal breach of trust, dishonest misappropriation, or other applicable provisions of the Bharatiya Nyaya Sanhita, 2023.
8. Accordingly, without expressing any opinion on the existence or otherwise of any criminal offence and without prejudice to the rights of either party, it is observed that the complainant shall be at liberty to pursue such criminal remedies as may be available in law, including approaching the jurisdictional police authorities for registration of information relating to cognizable offences or invoking the jurisdiction.
9. This execution case has been filed for compliance of the order dated 17.09.2025 passed in RERA/CC/08/2025, in which the Authority had directed the respondent company and its director to refund the principal amount of Rs.11,20,000/- to the complainant/executant along with an interest at 2% above marginal cost of fund-based lending rate (MCLR) of the State Bank of India (as applicable) on the date on which the amount becomes due till the date of payment, within sixty days of issuance of order and respondent has failed to comply the directions of the Authority till date.

10. The complainant has on several occasions reiterated her request for the execution of the order dated 17.09.2025 passed in RERA/CC/08/2025.
11. Perused the record. The respondent has failed to file any reply or appear before the Authority despite several opportunities.
12. The Authority observes that despite knowledge of the order in the said complaint case, the respondent has neither complied with the order, nor has filed any reply, nor has appeared in the case. Hence, for expeditious justice, the Authority is compelled to pass an order for the recovery of the said amount, as the respondent cannot be allowed to prolong the matter indefinitely.
13. The Authority directs the Secretary, RERA, Bihar to send the list of execution and complaint cases which have been filed/ initiated against the respondent company with all the details available, including the details of the Directors, different projects initiated by the respondent and other necessary details to Enforcement Directorate, Bihar for necessary action.
14. The Authority directs that in order to recover the amount mentioned in the order dated 17.09.2025 passed in RERA/CC/08/2025, a certificate of Public Demand Recovery be issued under Section 40(1) of the RERA Act, 2016, read with Rule 25 of the Bihar Real Estate (Regulation and Development) Rules, 2017, and Section 4/5 of the Bihar and Orissa Public Demand Recovery Act, 1914.
15. A copy of the order be sent to the Collector, Patna, for recovery of the aforesaid amount.

Accordingly, this matter stands disposed of.

Sd/-

(Vivek Kumar Singh)
Chairman