

I/197249/2022

Government of West Bengal

Housing Department
Law & Statutory Cell
New Secretariat Buildings
1,Kiran Shankar Roy road
Kolkata 700001

HO-23012(11)/6/2022-APARTTCELL-Dept.of HO 03/06/2022

ORDER

This Authority received petitions from **Srimati Soma Ghosh**, President and two other office-bearers of **Avidipta Phase-1 HIG Apartment Owners' Association** (the petitioners) dated 24th May 2022 and 30th May, 2022 respectively. The facts narrated in those petitions are as follows: -

The petitioners informed this Authority that an ad-interim injunction passed by the **5th Civil Judge (Senior Division), Alipore**, on **29.04.2022** in the matter of **Dr. Manash Saha -Vs- Avidipta Phase I HIG Apartment Owners Association** wherein the Ld. Judge ordered-

"That defendants and their men and agents are restrained from giving effect to the notice dated 18.04.2022 & 23.04.2022 for calling upon the annual meeting in any manner or form.

Defendants and their men and agents are further restrained from holding any election of the association without abiding by the rules and bye-laws of West Bengal Apartment Rules in any manner or form till 20.05. 2022."

The petitioners further stated in their petitions mentioned herein above that during the hearing on 20.05.2022 the ad-interim injunction has been further extended on the grounds stated in the earlier order. In view of such judicial order of the Ld.

I/197249/2022

5th Civil Judge (Senior Division), Alipore, the elections of the managers of the Association could not be held by them in the month of May 2022 which is a statutory obligation of the Board of Managers under the West Bengal Apartment Ownership Bye-laws, 2022. Similarly, the Annual General Meeting of the Association could not be held in the month of May, 2022 which is also a statutory obligation of the Board of Managers under the West Bengal Apartment Ownership Bye-laws, 2022.

It is also stated by the petitioners that the tenure of the 1st Board of Managers of the Association would come to an end on 31st May, 2022 and from 1st June , 2022 the 1st Board of Managers will not have any lawful authority to function and discharge their duties under the West Bengal Apartment Ownership Bye-laws, 2022.

Therefore, the petitioners prayed before this Authority to invoke the provisions of bye-law 39 of the West Bengal Apartment Ownership Bye-laws, 2022 and remove the difficulties arose due to the facts stated herein above.

Bye-law 39 of the West Bengal Apartment Ownership Bye-laws, 2022 reads-

"39. Power to remove difficulties. – (1) *If any difficulty arises in giving effect to the provisions of these bye-laws, the Competent Authority may, by guideline, make such provisions not inconsistent with the provisions of these bye-laws as may appear to the Competent Authority necessary for removing the difficulty.*"

It is evident from the facts discussed herein above that a difficulty has arisen to the 1st Board of Managers in giving effect

I/197249/2022

to the provisions of the West Bengal Apartment Ownership Bye-laws, 2022 so far as the tenure of the Board of Managers is concerned and handing over the charge to the 2nd Board of Managers. Despite the tenure of the 1st Board of Managers of the Association has come to an end on 31st May, 2022 they are not in a position to hand over the charge to the 2nd Board of Managers of the Association.

It is in the interest of the Association as well as in the public interest there should be a lawful authority, be it a Board of Managers or Administrators, to administer the day-to-day activities and functions of an Association. Therefore, this Authority is of the opinion that there should be a Board of Administrators to administer the day-to-day activities and functions with respect to Avidipta Phase-1 HIG Apartment Owners' Association.

In view of the facts and circumstances narrated herein above and in exercise of the powers conferred by bye-law 39 of the West Bengal Apartment Ownership Bye-laws, 2022, this Authority hereby appoints a Board of Administrators to administer the day-to-day activities and functions of Avidipta Phase-1 HIG Apartment Owners' Association consisting of the following members of the Association- **1) Shri Subrata De, 2) Srimati Gunjan Drolia and 3) Srimati Soma Ghosh.**

Shri Subrata De shall be the Chairperson of Board of Administrators. The tenure of the Board of Administrators shall be till 31st July, 2022 or until such further order from this

I/197249/2022

Authority whichever is earlier. The Board of Administrators shall hold Annual General Meeting and take necessary steps to conduct election of managers of the Association within 15 days from the date when any restrictive judicial order as discussed herein before ceases to operate.

This order shall come into force with immediate effect.

Sd/- Debasis Ghosh

Competent Authority

under the West Bengal Apartment Ownership Act, 1972

Copy forwarded for information and necessary actions: -

1. **Shri Subrata De**, Chairperson,
Board of Administrators,
Avidipta Phase-1 HIG Apartment Owners' Association.
2. **Srimati Gunjan Drolia**, Member,
Board of Administrators,
Avidipta Phase-1 HIG Apartment Owners' Association.
3. **Srimati Soma Ghosh**. Member,
Board of Administrators,
Avidipta Phase-1 HIG Apartment Owners' Association.

(Debasis Ghosh)

Competent Authority

under the West Bengal Apartment Ownership Act, 1972

I/197249/2022