



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 9531 of 2025

Sanfran Developer Pvt.Ltd Thru.Authorised
Signatory

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Deptt. Housing
Urban Planning Govt. Of U.P. Lko. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	: Abhinav Kumar Mathur
Counsel for Respondent(s)	: C.S.C., Shobhit Mohan Shukla

Court No. - 2

**HON'BLE MRS. SANGEETA CHANDRA, J.
HON'BLE AMITABH KUMAR RAI, J.**

1. Heard Sri Abhinav Kumar Mathur, learned counsel for the petitioner, Sri Virendra Singh, Advocate holding brief of Sri Shobhit Mohan Shukla, learned counsel appearing for respondent No.2 and learned Standing Counsel, who appears on behalf of State-respondent No.1.

2. The petition has been filed with the following prayers :-

"(i) Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 14.11.2024 passed in Complaint No.LKO153/09/112965/2023 and LKO153110005/2023 as well as the consequential notice dated 19.08.2025 issued under Section 63 of the RERA Act, 2016.

(ii) Issue a writ, order or direction in the nature of mandamus restraining the respondents from taking any coercive steps or pursuing any proceedings in furtherance of the impugned order dated 14.11.2024 during the pendency of the present writ petition.

(iii) Issue a writ, order or direction declaring that the Office Order dated 20.06.2023 bearing Letter No.8645/UP RERA/Administration/ 2023-24, to the extent it purports to delegate adjudicatory functions of the Authority under Section 31 of the Act to the Adjudicating Officer, is ultra vires the Real Estate (Regulation and Development) Act, 2016 and void in law."

3. It has been submitted by learned counsel for the petitioner that the delegation of adjudicatory functions of the U.P. Real Estate Regulatory Authority (hereinafter referred to as '**the Authority**') under Section 81 of Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as '**Act, 2016**') by order dated 20.06.2023, a copy of which has been annexed as Annexure-3 to the petition, is bad in law. He has submitted that, while referring to the judgment of the Hon'ble Supreme Court in

M/s. Newtech Promoters and Developers Pvt. Ltd. vs. State of U.P. and Others reported in (2021) SCC Online SC 1044, the Authority has relied upon paragraphs 116 and 120 thereof.

4. Paragraph 116 relates to an argument made by counsel for the petitioner therein that "such wide powers of delegation as given under Section 81 of the Act, 2016 may even be exercised to delegate power to any officer of the Authority or any other person," which would, in fact, be a delegation so wide as to negate the power of adjudication given to members of the Authority and assign it to some officer who has been given limited authority- for example, the Adjudicating Officer or even a ministerial employee/officer of the Authority. It has been further submitted that the Supreme Court was not considering such an argument, as it is was stated to be hypothetical in nature. The challenge raised in case of M/s. Newtech Promoters and Developers Pvt. Ltd. (supra) was only with regard to the delegation of adjudication of a complaint to one member of a three-member Bench of Authority.

5. It has been argued that now such a situation has arisen and it is no longer hypothetical, as vide order dated 20.06.2023, the Authority has delegated the power for adjudication of a complaint to one Sri Harish Tripathi, H.J.S., retired judicial officer/ District Judge and this is against the very provisions of the statute. Such delegation could not have been made in favour of the Adjudicating Officer, who is only empowered under Section 71 of the Act, 2016 for adjudicating compensation under Sections 12, 14, 18 and 19 of the Act, 2016.

6. Learned counsel for the petitioner has challenged the order of the Authority before this Court because, according to the petitioner, it is an order passed by an officer who could not have adjudicated the complaint at all. It has been passed by a coram non judice. He has referred to the judgment rendered by the Hon'ble Supreme Court in the case of Kiran Singh and others vs. Chaman Paswan and others reported in AIR 1954 SC 340.

7. It has also been argued by learned counsel for the petitioner that such an issue has been dealt with by a Co-ordinate Bench of this Court in Writ-C No.5451 of 2025 : Experion Developers Pvt. Ltd. Thru. Authorised Signatory and another vs. State of U.P. and others, wherein this Court granted an interim order in favour of the writ petitioners, Experion Developers, whose objections to adjudication of the complaint by the Adjudicating Officer had been rejected and the Adjudicating Officer was proceeding with the matter on merits.

8. It has been submitted that this Court had directed the stay of the proceedings before the Authority and called for exchange of pleadings in the meantime.

9. A copy of the interim order dated 06.06.2025 has been filed as Annexure-2 to the writ petition.

10. Learned counsel for the UPRERA, on the other hand, has argued, on the basis of Section 30 of the Act, 2016, that vacancies in the Constitution of the Authority would not, in any manner, invalidate such orders passed by the Authority. He has specifically referred to sub-clause (b) thereof, where any defect in the appointment of a person acting as a member of the Authority may not invalidate the order. He has also referred to Section 81 of the Act, 2016 regarding the power of delegation and the interpretation of Section 81 as given by the Supreme Court in M/s. Newtech Promoters and Developers Pvt. Ltd. (supra) and has referred to paragraphs 112 to 115 thereof, stating that the Authority can delegate any of its powers to any officer or any member or any other person, subject to conditions as may be specified in such order of delegation. Such powers and functions as are to be performed by the Authority may be performed by any member, officer or any other person, except the power to make regulations under Section 85 of the Act, 2016.

11. It has also been argued by learned counsel appearing on behalf of respondent No.2 that the interim order on which counsel for the petitioner has placed reliance clearly stated that it may not be treated as a binding precedent for other matters.

12. We are conscious of the condition as mentioned in the interim order of this Court dated 06.06.2025 in the case of Experion Developers Pvt. Ltd as aforecited. However, we have independently examined the delegation of power by the impugned order dated 20.06.2023 and we find that such delegation is against the statutory scheme of the Act, which provides that a complaint under Section 31- for instance, a complaint regarding possession and interest on delayed delivery of possession- can be decided only by the Authority or one of the members of the Authority and the question regarding compensation has to be decided by the Adjudicating Officer in exercise of powers under Section 71 of the Act, 2016.

13. This Court ordinarily does not interfere in cases decided by the Authority, because there is a statutory remedy available before the U.P. Real Estate Appellate Tribunal. However, we find from the order of delegation dated 20.06.2023 that it has been passed without due consideration of the statutory provisions and without correctly appreciating the judgment rendered by the Hon'ble Supreme Court in M/s. Newtech Promoters and Developers Pvt. Ltd. (supra). Such delegation, according to this Court, *prima facie*, is bad and as a result, the impugned order passed by the Adjudicating Officer along with the Chairperson, UPRERA, also deserves to be stayed.

14. Considering the aforesaid facts and circumstances of the case, matter requires consideration.

15. Issue notice to respondent No.3 returnable at an early date.

16. The petitioner shall take steps both ways and shall file an affidavit of service within a week along with documentary evidence regarding

service, including downloaded copy of the India Post website tracking report.

17. List this matter on 27.10.2025.

18. We stay the further proceedings, which we are informed are going on for execution of the order dated 14.11.2024 and the consequential notice dated 19.08.2025, till the next date of listing.

(Amitabh Kumar Rai,J.) (Mrs. Sangeeta Chandra,J.)

October 7, 2025
Shubhankar