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**Consumer commission orders builders to pay society 50L for problems due to lack of OC**


Residents of Tilak Nagar society were billed in excess for water, property tax and not given the promised carpet area, rules forum

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In a recent judgment, the State Consumer Commission of Mumbai held a firm of builders responsible for the inconvenience caused to a housing society in the absence of an occupation certificate, and asked the firm to pay the tenants over Rs 50 lakh towards expenses they incurred.

*The Tilak Nagar Royal Co-operative Housing Society*

In their order which was made available on Saturday, the consumer forum asked Kishore Mehta, Rajesh Mehta and Jayesh Mehta of Vinayak Builders to compensate 91 members of Tilak Nagar Royal Co-operative Housing Society, whose building they redeveloped eight years ago.

Four years after they took up the task of redevelopment, the 91 tenants (36 old and 65 new) were finally handed possession of their flats in 2005-2006. But, in their complaint filed through **advocate Uday Wavikar**, the tenants alleged that the legal possession had not been given to them, as was the case in 90 per cent of the buildings re-developed in the area.

The residents alleged that they were not handed over the occupancy and completion certificates, in the absence of which the society was made to pay excess water charge (Rs 1, 27, 040) and property tax (Rs 10,43,973) at double the rate.

They further alleged that the builders collected a total of Rs 5, 52,500 from the 65 new residents towards MHADA membership, but that the amount was never paid to MHADA. They also complained that there were defects in construction, such as peeling plaster and water seepage during monsoon.

Altogether, Vinayak Builders were asked to pay the society Rs 1,27,040 for excess water charges, Rs 10,43,973 for excess property tax, Rs 5,52,500 for MHADA membership, Rs 31,290 as outstanding maintenance for two flats they own, Rs 33,65,723 as compensation for not giving the promised carpet area, and Rs 50,000 as litigation expenses.
Vinayak Builders argued that the building was in good condition and there was no deficiency on their part. They said the tenants were handed over possession only for a short period, and that they did not wait for the occupation certificate. They further told the forum that around Rs18,00,000 was paid to the 36 old members for lift maintenance, which would cover the excess property and water tax.

While ruling that the building did not really need repairs, the forum, however, rejected the rest of the builders arguments. They were also told that if all clearances were not obtained in the next four months, the builders would have to pay a fine of Rs 2,000 per day as penalty.

It is the builders who must obtain the occupation and completion certificates from the concerned authority and hand them over along with other relevant documents to the society. The tenants are entitled to legal and proper possession of the flats, the forum panel of P B Joshi and Narendra Kawde observed while delivering their judgment.

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