

PROCEEDINGS OF THE DAY
1

Day and Date	Friday and 06.09.2024
Complaint No.	MA NO. 541/2024 in CR/1063/2024 Case titled as Arun Khanna VS Orris Infrastructure Private Limited
Complainant	Arun Khanna
Represented through	Shri Yogesh Yadav Advocate
Respondent	Orris Infrastructure Private Limited
Respondent Represented	Ms. Charu Rustagi Advocate
Last date of hearing	Application u/s 36 of the Act
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The present complaint has been received on 20.03.2024 and reply on behalf of respondent was received on 30.07.2024.

An application under section 36 has been filed by the respondent on 16.08.2024 wherein it is seeking recalling of order dated 31.05.2024. Vide proceeding dated 31.05.2024, it was held that :

The counsel for the complainant states that on the last date of hearing, four matters were taken up together of the same complainant and an interim order was passed for maintaining status quo of the unit but inadvertently in three matters, the order of status quo could not be mentioned, hence, the complainant has filed an application for rectification of the same. Heard. The same is allowed.

Previously on 28.05.2024, an application under section 39 of the Act was filed by the complainant, wherein the plea of the complainant was that all four complaints are of similar nature and are based on identical facts. So same interim order could be passed in all the four complaints and it was only an inadvertent error in three out of four complaints. Quoting the same, the matters were listed and heard on 31.05.2024. During this hearing, the bench

agreed with the complainant's plea and allowed the application, thereby issued the same interim order for all four complaints.

Now the counsel for the respondent is seeking recalling of order by filling an application under section 36 of the Act as firstly it had moved an application for adjournment for 31.05.2024 but the same has not been taken on record and secondly the subject unit has already been cancelled on 26.12.2023 i.e., much before the order dated 31.05.2024 (through which status quo has been maintained).

It is observed that the respondent's counsel presence was marked through its proxy counsel in order dated 31.05.2024 also an interim order of maintaining status quo has been passed for the subject unit which would not hamper the merits of the case in any way.

Moreover, the said application is not maintainable being covered under the exception mentioned in 2nd proviso to section 39 of the Act, 2016. A reference in this regard may be made to the ratio of law laid down by the Haryana Real Estate Appellate Tribunal in case of *Municipal Corporation of Faridabad vs. Rise Project* vide appeal no. 47 of 2022 decided on 22.04.2022 and wherein it was held that the authority is not empowered to review its orders.

Thus, in view of the legal position discussed above, there is no merit in the application dated 16.08.2024 filed by the respondent for recalling of order dated 31.05.2024 passed by the authority and the same is dismissed.

Matter to come up on **18.10.2024** for further proceedings in the main matter.



Ashok Sangwan
Member
06.09.2024