



HARERA
GURUGRAM

**HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM**

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

PROCEEDINGS OF THE DAY

17

Day and Date	Tuesday and 16.05.2023
Complaint No.	CR/1545/2019 Case titled as Rajendera Kumar Vs Vatika Limited
Complainant	Rajendera Kumar
Represented through	Complainant in person with Shri Rajiv Kumar Khare Advocate
Respondent	Vatika Limited
Respondent Represented	Shri Pankaj Chandola Advocate
Last date of hearing	02.05.2023
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The aforesaid complaint was disposed of vide order dated 25.08.2021.

The complainant -applicant filed application for rectification on 15.12.2022 and seeking following amendments:-

Sr. No.	Directions as per order dated 25.08.2021	Changes proposed
1.	i. The allottees have already paid a sum of Rs. 16,84,169/- to the respondent/builder. So, they are entitled to that amount beside interest @9.30% per annum from the date of each payment. ii. The respondent is directed to allot a new unit. A suitable unit in the project shall be offered to complainant by the respondent within a period of 2 months after adjusting the amount paid by the allottees besides interest accrued thereon by way of delay possession charges and that would be counted as settlement towards the allotment of the new unit.	i. The complainant-applicant submitted that interim relief granted on 28.07.2021 shall also be incorporated in final order dated 28.08.2021; w.r.t. incorporation of relief that <i>"the respondent is directed to make efforts to allot an alternative unit to the complainant if the booked unit is not available with the respondent at the same price and same size."</i>



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CR/1545/2019

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नया पी.डब्ल्यू.डी. विश्राम गृह, सिविल लाईंस, गुरुग्राम, हरियाणा

iii. It is considered significant that the developer shall take a lenient view in this context.

The counsel for the respondent states that the application for rectification has been filed under section 152 of CPC 1908 seeking amendment in the final order passed on 25.08.2021 which is not maintainable. Further, the relief sought amounts to review of the order and is not admissible and has placed on record a copy of order passed by the Hon'ble Supreme Court wherein it has been held that once the final order has been passed, all the interim orders ceases to exit.

However, the counsel for the complainant states that application has been filed under section 39 of the Act, 2016 and no fresh directions are being sought as the same is only for the incorporation of interim orders of the authority passed from time to time. The counsel states that Hon'ble Apex court has held that

"it is true that final decree is always required to be in conformity with the preliminary decree but that does not mean that a preliminary decree, before the final decree is passed, cannot be altered or amended or modified by the trial court in the event of changed or supervening circumstances even if no appeal has been preferred from such preliminary decree".

Arguments heard.

Order reserved.

Matter to come up on 04.07.2023 for pronouncement of order.


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member


Vijay Kumar Goyal
Member
16.05.2023