



HARERA
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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

14

Day and Date	Tuesday and 19.11.2024
Complaint No.	CR/1707/2019 Case titled as Vishakha Bist VS Oasis Landmarks Llp
Complainant	Vishakha Bist
Represented through	Shri Ashish Sardana AR
Respondent	Oasis Landmarks Llp
Respondent Represented	Shri Ranjit Sahu AR
Last date of hearing	Application u/s 39 of the Act
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The complainant has filed an application dated 16.09.2024, for rectification of proceeding of the day dated 09.07.2024, stating that the order does not reflect true proceedings of the day and incorporating it in any way whatsoever in the final order to be pronounced on 17.09.2024 and needs to be amended/corrected in order to reflect the true proceedings of the day, in order to be coherent with the principles of natural justice that ought to guide this Authority as per Section 38(2) of the Act.

That, further the said order of 09.07.2024 though signed by Sh. Vijay Kumar Goyal as a member of the Authority was instead attended by Sh. Sanjeev Kumar Arora and does not carry the signature of the latter rather the former and therefore merits to be struck off for not being signed by the correct bench member on that date, which would place the signed members of the Authority in Contempt of their own Court, leading to multifarious litigations and further action unless duly rescinded and corrected in terms of the correct proceedings of the day.

The complainant has filed another application dated 01.10.2024, for audio-video recording for final argument/order under section 151 of the Civil Procedure Code, 1908 read with section 38(2) of the Act of 2016, and as per



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28/10/2019

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

model rule for live streaming and recording of court proceeding published by the E-committee of the Hon'ble Supreme Court.

On the last date of hearing i.e., 08.10.2024, the counsel for the respondent wished to file the reply of the application filed by the complainant. Till date no reply filed by the respondent.

The applicant was heard.

So far as the issue of recording proceedings is concerned, the Authority is of the view that proceeding are recorded by the Authority to capture in brief, the relevant details and events that take place on a particular date of hearing and brief arguments which may be helpful to the presiding bench for maintaining continuity in the proceedings. They do not in any manner whatsoever express any final view of the Authority in the matter. The complaints are heard in the summary manner as provided under the Act of 2016 and are decided on the basis of pleadings on record as well as oral arguments of the respective parties. The complainant has filed the application under Section 39 of the Act of 2016 and it would be relevant to court the provisions contained thereunder:

The Authority may, at any time within a period of two years from the date of the order made under this Act, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:

Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act:

Provided further that the Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of this Act.

It is observed by the Authority, that no 'order' as such has been passed by it and the proceedings in the present complaint are still continuing. Moreover, there is no error apparent from record which needs rectification of the proceedings. Rather, the applicant wishes the Authority to incorporate certain statements about the merits of the case statedly made by him during the course of hearing. The Authority is of the view that the parties are free to incorporate any or all such facts and averments in their written submissions which are taken on record of the complaint and duly considered while passing the final order in the matter. The parties are free to request filing of written submissions in addition to the complaint/ reply already placed on record, by serving advance copy to each other. So far as the presence members of the coram present on that day is concerned, as per record the cases were heard by the full bench headed by the Hon'ble Chairman and two members and the



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CR/1704/2019

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apprehension of the applicant that the record of proceedings has been signed by another member other than the one present is misplaced.

In view of the above, there is no merit in the application submitted by the applicant under Section 39 of the Act, 2016 and the same is dismissed.

So far, the application filed under Section 38(2) for audio-video recording of proceedings is concerned, it would be relevant to reproduce the provisions of Section 38(2), which are as under:

38(2) The Authority shall be guided by the principles of natural justice and, subject to the other provisions of this Act and the rules made thereunder, the Authority shall have powers to regulate its own procedure.

A bare perusal of the above provision makes it clear that the same empowers the Authority to regulate its own procedure to carry out the purposes of the Act. As the complaint is being heard in open court, the Authority does not deem it necessary to allow audio and video recording of the proceedings as they are already being held in the presence of the parties as well as all persons present in the court. There are no restrictions on entry into the courtroom during the course of proceedings.

In view of the above, the application filed under Section 151 of the CPC read with Section 38(2) of the Act of 2016 is hereby dismissed.

Matter to come upon **11.02.2025** for further proceeding.

Ashok Sangwan
Member

Arun Kumar
Chairman
19.11.2024

Vijay Kumar Goyal
Member