

PROCEEDINGS OF THE DAY		46
Day and Date	Thursday and 06.10.2022	
Complaint No.	CR/380/2019 Case titled as ANAND GUPTA ANOTHER Vs ALM INFOTECH CITY PVT.LTD.	
Complainant	ANAND GUPTA ANOTHER	
Represented through	Shri Akash Gupta Advocate	
Respondent	ALM INFOTECH CITY PVT.LTD.	
Respondent Represented through	Shri Pankaj Chandola and Ms. Ankita Saikia Advocate	
Last date of hearing	13.07.2022	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings

File has been received on transfer from the court of Adjudicating Officer in view of the judgment dated 11.11.2021 passed by the Apex Court in the case bearing no. **SLP(Civil) No(s). 3711-3715 OF 2021) titled as M/s Newtech Promoters and Developers Pvt Ltd Versus State of U.P. and Ors.** as matters regarding refund and interest under sec 18(1) are to be decided by the authority and matters regarding adjudging compensation to be decided by the Adjudicating officer.

The issue regarding the application filed in the form CAO as per the Haryana Rules 2017, whether the authority should proceed further without seeking fresh application in the form CRA for cases of refund along with prescribed interest in case allottee wishes to withdraw from the project on failure of the promoter to give possession as per agreement for sale, has been deliberated in the proceedings dated 10.5.2022 in **CR No. 3688/2021 titled Harish Goel Versus Adani M2K Projects LLP.** There is no material difference in the contents of the forms and the different headings whether it is filed before the adjudicating officer or the authority. Keeping in view the judgement of Hon'ble Supreme Court in case titled as **M/s Newtech Promoters and**



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/380/2019

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

Developers Pvt Ltd Versus State of U.P. and Ors., the authority is proceeding further in the matter where allottee wishes to withdraw from the project and the promoter has failed to give possession of the unit as per agreement for sale irrespective of the fact whether application has been made form CAO/CRA. Both the parties consented to proceed further in the matter accordingly. The Hon'ble Supreme Court has ruled that procedures are hand maid in the administration of justice and a party should not suffer injustice merely due to some mistake or negligence or technicalities.

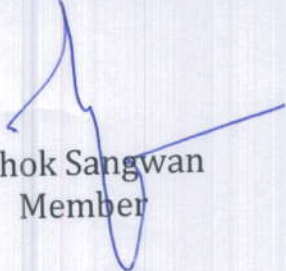
The present complaint has been filed on 21.02.2019. The said complaint was dismissed by orders dated 19.02.2021, due to non-appearance of the complainants. The complainants filed an application dated 23.02.2021 for restoration of complaint. In view of aforesaid application, the complaint was restored vide orders dated 01.04.2021. On 10.08.2021, the complainants were directed to file the complaint in proper format within two weeks with an advance copy to the respondent. Vide said orders, the respondent was also directed to file the reply within two weeks.

On 12.05.2022, both the parties sought short adjournment. The counsel of the respondent stated at bar that the project has been financed by Central govt. under SWAMIH fund. The complainants sought time to visit the project. On the other hand, the respondent sought time to file reply. The counsel for respondent was directed to file the reply within 10 days. No written reply has been filed till date.

The counsel for the respondent has supplied a copy of the reply to the counsel for the complainant during proceedings. The counsel for the respondent is directed to file reply in the registry of the authority within a period of one week alongwith costs of Rs. 5000/- to be paid to the complainant.

Matter to come up on 06.01.2023 for further proceedings.


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member


Vijay Kumar Goyal
Member
06.10.2022