



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

EXECUTION NO. 641 OF 2021

IN

COMPLAINT NO. 878 OF 2019

Review/Rectification of orders dated 07.07.2022

Akhil Mahajan

....JUDGMENT DEBTOR

VERSUS

M/s Heritage Cottages Pvt Ltd. and others

....DECREE HOLDER

Hearing : 1st Re-hearing

CORAM: Dr. Geeta Rathee Singh
Nadim Akhtar

Member
Member

Date of Hearing: 13.12.2022

Present : Mr. Akhil Mahajan, complainant himself through video conferencing

None for the respondent

ORDER (GEETA RATHI SINGH - MEMBER)

1. Captioned petition was filed for execution of order dated 21.01.2020, passed in complaint case no. 878 of 2019 titled, "Akhil Mahajan versus M/s Heritage Cottages Pvt Ltd. and others", which was disposed of.

G. Rathee

2. Subsequently, the decree holder filed a petition for execution of orders passed by the Authority.

3. This execution petition was disposed of by orders of Authority dated 07.07.2022, relevant part of which is reproduced as under -

“3. Authority has dealt with this subject from time to time in its complaint as well as project jurisdiction. At present none of the five successor companies have registered their projects nor have their licenses been renewed or bifurcated. The matter is still in serious litigation. Lastly a stay was granted by Hon’ble Punjab and Haryana High Court in CWP No. 4383 of 2022 in which the bifurcation of license and division of liability on account of payable external development charges has been stayed.

4. Authority therefore observe that at present it is unable to resolve this matter. Even Hon’ble Supreme Court had given directions for bifurcation of license, in pursuance of which Town and Country Planning Department had initiated further actions but the same have also become subject matter of further litigation before Hon’ble High Court.

5. In the foregoing circumstances, this Authority is unable to pass any further order in the matter. Decision of the Authority in the bunch matter with lead complaint case no. 826 of 2018 will be implemented in due course of time when litigation being pursued before the Hon’ble High Court by various parties attains finality.”

G. Kataria

3. An application dated 29.07.2022 has been filed by the complainant Dr. Akhil Mahajan, for review/rectification of abovementioned disposal order dated 07.07.2022, under section- 39 of RERA Act, 2016 on ground of inadvertent errors as to facts stated, which are as under –

- i. Firstly, in para 3 of order dated 07.07.2022, wrong fact is mentioned with respect to renewal of licence. Licence no. 34 to 36 of 2007 has been renewed on 01.03.2022 of area admeasuring 48.03 acres in Sector – 89, Faridabad upto 22.01.2025.
- ii. Secondly, in- principal approval was issued vide memo no. 31230 dated 10.12.2021 and approval had been given in response to letter given by respondent promoter, i.e., M/s Heritage Cottages Pvt. Ltd. Also, beneficiary interest along with joint development rights in respect of area measuring 2.0643 acres had also been given to M/s Heritage Cottages Pvt. Ltd. on 07.03.2022.
- iii. Thirdly, stay mentioned in application no. 4383 of 2022 seems to be factually incorrect as Hon'ble Court has cleared the matter on 28.04.2022 where no stay had been given on bifurcation of licence and order was passed to the extent that no third party rights will be created.


G. Rathore

4. Today, during the hearing, Dr, Akhil Mahajan appeared through video conferencing and reiterated the entire factual matrix as stated above and requested to review/rectify the order passed by Authority, dated 07.07.2022 and also prayed that registration be given to project being developed by M/s Heritage Cottages Pvt. Ltd.

5. Authority observes that the amendment/relief sought by the petitioner vide rectification/review application dated 29.07.2022, if allowed amounts to review of its own order dated 07.07.2022, as his prayer amounts to amendment of substantive part of order passed by Authority dated 07.07.2022. Authority, by virtue of any provision of RERA Act, 2016 does not have the power to review its order, in fact proviso(2) to Section-39 of the RERA Act of 2016 bars amending substantive part of the order. Section-39 of the RERA Act, 2016 is reproduced for reference-

“Section 39 - Rectification of orders - 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.”



6. Furthermore, as far as prayer of petitioner that registration be granted to project being developed by M/s Heritage Cottages Pvt. Ltd. is concerned, it is subject matter pending before the Authority in its project jurisdiction and therefore, has to be dealt separately.

7. Therefore, present execution petition is **disposed of as dismissed**. File be consigned to record room after uploading of order on the website of the Authority.



DR. GEETA RATHEE SINGH
[MEMBER]



NADIM AKHTAR
[MEMBER]

