

PROCEEDINGS OF THE DAY		16
Day and Date	Friday and 28.04.2023	
Complaint No.	CR/3644/2020 Case titled as CHANDER PRAKASH CHALLANI Vs IREO PRIVATE LIMITED	
Complainant	CHANDER PRAKASH CHALLANI	
Represented through	Shri Kumar Parshant Advocate	
Respondent	IREO PRIVATE LIMITED	
Respondent Represented	Shri M.K. Dang Advocate	
Last date of hearing	Rectification application	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings

The complainants filed the complaint before the authority seeking delay possession charges with regard to handing over of the allotted unit by the respondent/builder and the same was disposed off on 09.07.2021 allowing the said relief.

The complainant has filed an application dated 04.08.2022 for rectification of order dated 09.07.2021. It is pleaded that though the OC was obtained on 14.09.2017 (annexure R-19 on page no. 79 of reply) and the possession of the allotted unit was offered on 21.09.2017 but the actual possession was handed over on 18.01.2019. So, the DPC should be allowed from the due date of possession till the actual date of possession i.e., 18.01.2019 plus two months i.e., 18.03.2019 instead of 21.09.2017 plus two months i.e., 21.11.2017.

The authority observes that section 39 deals with the *rectification of orders* which empowers the authority to make rectification within a period of 2 years from the date of order made under this Act. The authority may rectify



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/3644/2020

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

any mistake apparent from the record and make such amendment, if the mistake is brought to its notice by the parties. However, **rectification cannot be** allowed in two cases, *firstly*, orders against which appeal has been preferred, *secondly*, to amend substantive part of the order. The relevant portion of said section is reproduced below.

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."

The authority is of the view that the unit of the allottee is situated on 27th floor, in tower B and the OC for the said tower from the ground floor to 39th has been already received on 14.09.2017 from the competent authority after laying down all the required services prerequisites for obtaining OC.

Since the present application involves amendment of substantive part of the order by seeking relief to change the date of offer of possession. Accordingly, the said application is not maintainable being covered under the exception mentioned in 2nd proviso to section 39 of the Act, 2016 and hence DPC cannot be allowed from the date of actual handing over of possession i.e. 18.01.2019.

Thus, in view of the legal position discussed above, there is no merit in the application dated 04.08.2022 filed by the complainant for rectification of order dated 09.07.2021 passed by the authority and the same is hereby declined.



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CR/3649/2020

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Application stands **dismissed** and be consigned to the registry.


Sanjeev Kumar Arora

Member

28.04.2023