

PROCEEDINGS OF THE DAY		16
Day and Date	Tueasday and 02.05.2023	
Complaint No.	CR/2030/2022 Case titled as Ramswaroop Khurana And Sunita Khurana Vs Emaar MGF Land limited	
Complainant	Ramswaroop Khurana And Sunita Khurana	
Represented through	Shri K.K. Kohli Advocate	
Respondent	Emaar MGF Land limited	
Respondent Represented	Shri J.K. Dang Advocate	
Last date of hearing	Rectification application	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings

The present complaint was disposed off by the authority on 08.09.2022 being barred by limitation.

The applicant-complainant has moved an application dated 17.10.2022 for restoration of complaint stating that law of limitation does apply only to the proceedings of a "Court" and not quasi-judicial proceedings. That Article 137 of law of limitation is only applicable to the 'Judicial Proceedings' that are to be held in courts only and not to the 'Quasi-judicial proceedings' that are proceeded in authorities, tribunals, etc. In support of his submission, the applicant-complainant has relied on following citations passed by the Hon'ble Apex Court: 1969(1) SCC 873; 1970 SC 209=1962(2) SCC 199; 1975 SC 1039=1975(4) SCC 22 and as held by Hon'ble Punjab Real Estate Regulatory Authority in case titled as Kanishk Kapoor Vs. ATS Estates Private Limited in complaint bearing no. 1828/2020.

The authority observes that the present application filed by the applicant-complainant is in the nature of review of order dated 08.09.2022 and the Act does not give power to the authority to review of its order.

CA 2030/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana नया पी.डब्ल्यू.डी. विश्राम गृह सिविल लाईंस गुरुग्राम, हरियाणा

Also, the matter under consideration is not covered under section 39 of the Act. 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 and the authority may rectify 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:

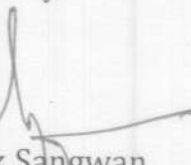
Provided further that the Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of this Act." (Emphasis Supplied)

Since the present application involves amendment of substantive part of the order by seeking that the present complaint is maintainable and is not barred by limitation in view of aforesaid citations, the said application is not maintainable being covered under the exception mentioned in 2nd proviso to section 39 of the Act.

Thus, in view of the legal position discussed above, there is no merit in the application dated 17.10.2022 being filed by the applicant-complainant for restoration/rectification of order dated 08.09.2022 passed by the authority and the same is hereby declined.

Application stands dismissed and file be consigned to the registry.


Sanjeev Kumar Arora
Member


Ashrok Sangwan
Member
02.05.2023