



<b>PROCEEDINGS OF THE DAY</b>		<b>15</b>
Day and Date	Tuesday and 23.05.2023	
Complaint No.	CR/1794/2019 Case titled as Dr. Neeraj Kumar Sharma and Mallika Dixit Vs Emaar MGF Land Limited	
Complainant	Dr. Neeraj Kumar Sharma and Mallika Dixit	
Represented through	Complainant in person	
Respondent	Emaar MGF Land Limited	
Respondent Represented	Shri Manan Sharma proxy counsel	
Last date of hearing	Rect. application	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
<b>Proceedings</b>		
<p>The applicant-complainant has moved an application dated 15.12.2022 for rectification of order dated 21.01.2020 stating that following be amended:</p> <ul style="list-style-type: none"><li>• DPC till handing over of possession</li><li>• DPC for delay in start of construction</li><li>• Refund for reduction in carpet area</li><li>• Execution of conveyance deed</li><li>• Refund of VAT, service tax, administrative and misc. charges</li><li>• Allotment of second car parking</li><li>• Compensation for mental agony and legal expenses</li></ul> <p>The authority observes that the complaint bearing no. 1794/2019 was disposed of vide order dated 21.01.2020 and thereafter, being aggrieved by the said order, the respondent had approached Hon'ble HREAT vide appeal no. 349 of 2020.</p> <p>The authority observes that the present application filed by the applicant-complainant is in the nature of review of order dated 21.01.2020 and the Act</p>		



HARERA  
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY  
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विभाग गृह, सिविल लाइंस, गुरुग्राम, हरियाणा

does not give power to the authority to review of its order.

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 stating that the DPC be allowed till handing over of possession and for delay in starting the construction. Also various other reliefs have sought by the complainant which were not raised while filing the appeal. Thus, in view of the above, the said application is not maintainable being covered under the exception mentioned in 2<sup>nd</sup> proviso to section 39 of the Act.

Thus, in view of the legal position discussed above, there is no merit in the application dated 15.12.2022 being filed by the applicant-complainant for rectification of order dated 21.01.2020 passed by the authority and the same is hereby declined.

Application stands dismissed and be consigned to the registry.

  
Sanjeev Kumar Arora  
Member

  
Ashok Sangwan  
Member

  
Vijay Kumar Goyal  
Member

An Authority constituted under section 20 the Real Estate (Regulation and Development) Act, 2016

भू-संपदा (विनियामन और विकास) अधिनियम, 2016 की धारा 20 के अर्जित गठित प्राधिकरण

23.05.2023