

| PROCEEDINGS OF THE DAY |   | 1 |
|------------------------|---|---|
| Day and Date           | Tuesday and 14.03.2023  |   |
| Complaint No.          | CR/613/2018/873/2021 Case titled as MRIDULA PARTI AND PARTHA SARATHI DE Vs MICROTEK INFRASTRUCTURES PVT LTD |   |
| Complainant            | MRIDULA PARTI AND PARTHA SARATHI DE   |   |
| Represented through    | Shri Sukhbir Yadav Advocate   |   |
| Respondent             | MICROTEK INFRASTRUCTURES PVT LTD  |   |
| Respondent Represented | Ms. Shriya Takkar Advocate  |   |
| Last date of hearing   | 28.02.2023  |   |
| Proceeding Recorded by | Naresh Kumari and HR Mehta  |   |

### Proceedings

The matter was listed for arguments on maintainability of the complaint before this authority in view of proceedings pending in the Special Commercial Court Gurugram.


The counsel for the complainant states that the respondent approached the arbitrator under section 34 of the Arbitration and Conciliation Act, 1996 for seeking directions to the allottee to take possession of the allotted unit and make the required payments. The respondent approached the Arbitrator on 18.04.2019 after filing of the present complaint on 25.07.2018 as well as written reply of the respondent on 24.09.2018. Further, the complainant states that the relief being sought under the present complaint is entirely different from the issues raised in the arbitration by the respondent. Therefore, the present complaint is maintainable and may be heard on merits. In support of his arguments, the counsel for the complainant submits citation of Hon'ble Supreme Court in case M/s Emaar MGF Land Limited versus Aftab Singh and two judgments of HARERA Gurugram bearing No.1443/2019 Naresh Sanwal versus Native Buildcon Pvt. Ltd. and Ors. And judgment of

HRERA Panchkula in case No.1247 of 2020 titled as Harshit Gupta and another versus BPTP.

On the other hand, counsel for the respondent states that the present proceedings are not maintainable in view of the appeal of the complainant in the Commercial Courts at Gurugram. In support of her arguments, she cites order of the Hon'ble NCDRC in case No.2606 of 2018 wherein a similar matter of ex-parte award was deferred sine die and is submitted written submissions alongwith citations.

Order reserved.

Matter to come up on **18.04.2023** for orders on the point of maintainability of the complaint.



Sanjeev Kumar Arora  
Member



Ashok Sangwan  
Member



Vijay Kumar Goyal  
Member  
14.03.2023