

PROCEEDINGS OF THE DAY**27**

Day and Date	Tuesday and 08.08.2023
Complaint No.	CR/4299/2021 Case titled as Sumit Kumar Gupta and Nishi Agarwal Vs Sepset Properties Private Limited
Complainant	Sumit Kumar Gupta and Nishi Agarwal
Represented through	Shri Sukhbir Yadav Advocate
Respondent	Sepset Properties Private Limited
Respondent Represented through	Shri Himanshu Singh Advocate
Last date of hearing	04.07.2023
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceeding-cum-Order

The authority vide order dated 12.03.2020 in case bearing no. 962/2019 allowed delayed possession charges @10.05% per annum on the paid-up amount by the complainant from due date of possession i.e. 06.09.2017 till offer of possession i.e. 24.01.2019. Subsequently due to non-compliance by the respondent, the complainant filed an execution petition bearing no. 3352/2020 and the same was disposed of vide order dated 07.04.2021 with a liberty to file objections, if any, by filing a separate application.

The counsel for the complainant submitted that the balance decretal amount has not been credited in the account of complainant and the respondent is charging several illegal charges from him.

The counsel for respondent submitted that the subsequent complaint is not maintainable and barred by res-judicata as the matter in issue has already been decided by this authority and execution petition of the said order has already been disposed of and if he has any objection the same shall be determined by the executing court as provided under Section 47 of the Code of Civil Procedure, 1908.



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

CR/4299/2021

New PWD Rest House, Civil Lines, Gurugram, Haryana

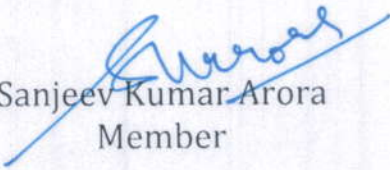
नया पी.डब्ल्यू.डी. विश्राम गृह सिविल लाईंस, गुरुग्राम, हरियाणा

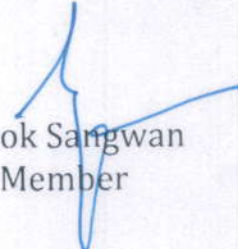
Section 47 CPC is reproduced as under:

"47. Questions to be determined by the Court executing decree. — (1) All questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree, shall be determined by the Court executing the decree and not by a separate suit."

On considering the arguments and submissions made by parties, authority is of view that though the provisions of the Code of Civil Procedure, 1908 (CPC) is, as such, not applicable to the proceedings under the Act, save and except certain provisions of the CPC, which have been specifically incorporated in the Act, yet the principles provided therein are the important guiding factors and the authority being bound by the principles of natural justice, equity and good conscience has to consider and adopt such established principles of CPC as may be necessary for it to do complete justice. Moreover, there is no bar in applying provisions of CPC to the proceedings under the act if such provision is based upon justice, equity and good conscience. Further, the liberty granted was in respect of filing an application in the executing court and not a subsequent complaint.

Thus, the present complaint stands dismissed being not maintainable. File be consigned to the registry.


Sanjeev Kumar Arora
Member


Ashok Sangwan
Member


Vijay Kumar Goyal
Member
08.08.2023