

M3M India Pvt. Ltd.
Vs.
Manorma Chauhan and another
Appeal No.344 of 2023

Present: Mr. Aman Arora, Advocate,
for the appellant.

Appellant has filed the instant appeal aggrieved by the order dated 01.05.2023 whereby the Adjudicating Officer has allowed the amendment in the complaint sought by the respondent-allottee. Operative part of the order reads as under:

“I do not find much substance in the plea that the complaint, if allowed to be amended, will tantamount an appeal against order of the authority, passed on a complaint filed by present complainant seeking refund of the amount. Said case was for refund of amount paid by complainant and present case is seeking compensation, which this forum (AO) is competent to decide and not the authority. Both are based on separate causes of action.

By making amendment in complaint, the complainant wants to bifurcate the heads, on which she wants compensation. Even if, the complainant wants to incorporate some more facts but on same cause of action, the respondent will be at liberty to rebut the same by filing reply again. Opportunity of reply will be given to the respondent. Considering facts mentioned above I allow application, in hands. Copy of amended complaint has already been filed. Learned counsel for respondent admits to have received copy of it. Same (learned counsel) submits that she would like to file written reply of amending complaint. Same is allowed. Let written reply be filed till next date. With an advance copy of the complainant. To come on 17.07.2023 for further proceedings.”

Learned counsel for the appellant has vehemently argued that the amendment in question changes the entire complexion of the complaint. The order allowing the amendment is unsustainable. According to him, the amendment which has been allowed is beyond the ambit of the principles governing way out of under Order 6 Rule 17 of the Code of Civil Procedure. We do not express any opinion at this stage regarding this contention. However, the appellant (respondent therein) has ample opportunity to file rebuttal before the Adjudicating Officer. He is at liberty to take all his pleas in the reply to be filed by him.

We dispose of the present appeal with the observation that the adjudicating officer will decide the entire issue after taking into consideration pleadings of both the parties, objections raised in rebuttal and material on record.

We have no doubt that the matter shall be decided strictly as per law and on the basis of evidence available.

File be consigned to the record.

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Inderjeet Mehta
Member (Judicial)

Anil Kumar Gupta
Member (Technical)

17.07.2023
Manoj Rana