PROCEEDINGS OF THE DAY	21

Day and Date	Wednesday and 27.09.2023
Complaint No.	CR/4472/2021 Case titled as SUDESH KULKARNI AND PARTYASHA RATH Vs ANSAL HOUSING LIMITED
Complainant	SUDESH KULKARNI AND PARTYASHA RATH
Represented through	None
Respondent	ANSAL HOUSING LIMITED
Respondent Represented through	None
Last date of hearing	24.05.2023
Proceeding Recorded by	Naresh Kumari

Proceedings

An application was filed by the complainant-applicant on 07.11.2022 for modification of an order dated 21.10.2022 stating that the present complaint was disposed of merely on the basis of the copy of the settlement agreement dated 11.10.2022 produced by the respondent and without appreciating the stipulations in the agreement that the terms have not been complied and settlement agreement has not come into force.

The matter has already been decided by the authority on 21.10.2022 in view of the settlement arrived at between the parties to their full satisfaction, the present complaint stands disposed of.

The authority observes that ***firstly,*** there is no provision in the Act which empowers the authority to clarify its order. ***Secondly,*** there are provisions under section 39 of the Act that deal with rectification of the order, however, the ambit and scope of section 39 of the Act is very limited. 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 three cases, *firstly,* when the application for rectification is filed after 2 years from the date of the order made under this Act, *secondly*, orders against which appeal has

been preferred, *thirdly,* to amend substantive part of the order. The relevant portion of said section is reproduced below:

> ***Section 39: Rectification of orders***
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> *"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."*

A reference in this regard may be made to the ratio of law laid down by the Haryana Real Estate Appellate Tribunal in case of ***Municipal Corporation of Faridabad vs. Rise Projects vide appeal no. 47 of 2022***; decided on 22.04.2022 and wherein it was held that the authority is not empowered to review its orders.

Thus, in view of the legal position discussed above, there is no merit in the application dated 07.11.2022 filed by the complainant for rectification of the order dated 21.10.2022 passed by the authority, and the same is hereby declined.

The present application is dismissed. File be consigned to the registry.

Ashok Sangwan
Member
27.09.2023