



# HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

## 1. COMPLAINT NO. 77 OF 2018

Mrs. Kanta Malhotra

....COMPLAINANT(S)

VERSUS

M/S Parsvnath Developers Ltd.

....RESPONDENT(S)

**CORAM: Anil Kumar Panwar  
Dilbag Singh Sihag**

**Member  
Member**

**Date of Hearing: 22.08.2019**

**Hearing: 10<sup>th</sup> (Rehearing)**

**Present: - Mr. Sushil Malhotra, Counsel for complainant**

**Ms. Rupali S. Verma, Counsel for respondent**

### **ORDER (ANIL KUMAR PANWAR- MEMBER)**

1. This application has been filed by respondent for rectification of order dated 04.10.2018 passed by this Authority whereby respondent was directed to refund to the complainant the amount of Rs. 47,80,499/- along with

interest. Rectification in the order is prayed averring that the refundable amount payable to the complainant actually is Rs. 30,83,024/- and not Rs. 47,80,499/-.

2. Learned counsel for complainant pursuant to an order passed on 30.01.2019 has filed tabulated information explaining that he had paid to the respondent a sum of Rs, 40,43,049/- which obviously implies that the amount in the refund order should not have been mentioned as Rs. 47,80,4999/-.

3. The question then arose for adjudication as to whether the actual amount paid by complainant is Rs. 40,43,049/- or Rs. 30,83,024/-. Learned counsel for respondent doesn't dispute the payment of Rs. 30,83,024/- and the dispute she raised is regarding payment of Rs. 9,60,025/-. (Rs. 4043049-Rs. 3083024). The complainant has relied on two cheques, one for an amount of Rs. 2,00,000/- and another for an amount of Rs. 7,30,027/-, to prove the payment of amount beyond Rs. 30,83,024/-. According to complainant, Mr. Sunil Rajan, an employee of respondent had received the payment of these cheques. Copies of cheques and payment receipts bearing signature of said Sunil Rajan were supplied to respondent's counsel who sought adjournment for ascertaining if the amounts of said cheques were actually paid to respondent.

4. Subsequently, learned counsel for respondent informed the Authority that Mr. Sunil Rajan, the person who was said to have received the amounts of two cheques and issued receipts relied by complainant, has never



been in the employment of respondent. Therefore, the complainant was directed to prove that he had paid the disputed amount of cheques to an authorized person of the respondent.

5. The complainant then sought adjournments to prove that he had paid the disputed amount to authorized person of respondent. The respondent vide order dated 24.07.2019 was directed to file an affidavit to the effect that Mr. Sunil Rajan has never been his employee. In compliance of the said order, the respondent had filed an affidavit stating that Mr. Sunil Rajan has never been in his employment.

6. Complainant had already availed four opportunities and for today he was afforded last opportunity to prove that payment of Rs. 9,60,025/- was made to the authorized agent of respondent. Learned counsel for complainant today states that he does not want to produce any evidence for proving that Mr. Sunil Rajan to whom amount of Rs. 9,60,025/- was paid, was authorized agent of respondent. So, the disputed amount of Rs. 9,60,025/- paid to Sunil Rajan can't be deemed as payment made to respondent and the complainant is not entitled to its refund.

7. Faced in the aforesaid situation, the complainant sought to defeat the review application by contending that the respondent in some other matters pending before this Authority has seriously disputed the Authority's jurisdiction to deal with refund matters and his such conduct, therefore,



precludes him from claiming any relief from this Authority for rectification in the refund order.

8. The Authority is not convinced with the argument because it is well settled that an error apparent on record can be rectified and jurisdiction to rectify such mistake vests only with court which had passed the order sought to be rectified.

9. For reasons recorded above, this Authority is of the considered opinion that the amount actually paid to the respondent is not proved to be more than Rs. 30,83,024/-. Such being the situation, the complainant is entitled only to refund of Rs. 30,83,024/- and not Rs. 47,80,499/-, along with interest.

10. Consequently, the review application is allowed and the amount of refund indicated in order dated 04.10.2018 be reflected as Rs. 30,83,024/- instead of Rs. 47,80,499/-. Necessary correction in the main order be made with reference to this order and it be thereafter uploaded on the website of Authority. Files be consigned to record room.



**ANIL KUMAR PANWAR**  
[MEMBER]



**DILBAG SINGH SIHAG**  
[MEMBER]