

<b>PROCEEDINGS OF THE DAY</b>		<b>1</b>
Day and Date	Tuesday and 19.12.2023	
Complaint No.	CR/1776/2018 Case titled as Arvind Kumar Jain VS S.S Group Private Limited	
Complainant	Arvind Kumar Jain	
Represented through	Shri Rishabh Jain and Ms. Stuti Jain Advocates	
Respondent	S.S Group Private Limited	
Respondent Represented	Shri Dhruv Dutt Sharma Advocate	
Last date of hearing	28.11.2023	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
<b>Proceedings-cum-order</b>		
<p>Order pronounced.</p> <p>The complainant has filed an application on 11.09.2023 seeking clarification of order dated 15.03.2019 wherein it is stated that the aforesaid matter was decided by the Authority vide order dated 15.03.2019 and due to omission/inadvertence, PLC was removed from the direction part of the said judgment/order. However, a specific finding was given by the authority in the said order in para 21 of the order and it was observed that:</p> <p style="text-align: center;"><i>"...In regard to issue v and vi raised by the complainant, it is noted from the perusal of agreement and payment schedule the complainant has made payments of PLC and club membership charges as per the terms of agreement, moreover, no objection has ever been raised by the complainants at the time of making payment through exchange of correspondence, hence, the complainants are estopped by their act and these issues become infructuous."</i></p> <p>It is further alleged by the complainant that he is entitled for PLC in terms of BBA dated 12.09.2013 and offer of possession dated 14.05.2022. That the learned executing court vide order dated 17.08.2023 has specifically denied in view of the operative part of order the judgment dated 15.03.2019. Now, the matter is listed for 26.09.2023 and prejudice will caused to the applicant if the order is not clarified/modified/rectified specifically when issue of PLC has been decided in favour of the applicant. Hence this application for seeking clarification of orders</p>		

dated 15.3.2019.

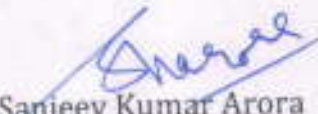
The authority observes that **firstly**, there is no provision in the Act which empowers the authority to clarify its order. **Secondly**, there are provisions under section 39 of the Act which deal with rectification of the order, however, the ambit and scope of section 39 of the Act is very limited. 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.

**Thirdly**, 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.

The execution petition of the order dated 15.03.2019 has already been filed and objection, if any, the same shall be determined by the executing court as provided under Section 47 of the Code of Civil Procedure, 1908 which 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."*

Thus, in view of the legal position discussed above, there is no merit in the application dated 11.09.2023 filed by the complainant for rectification/clarification of order and decree dated 15.03.2019 passed by the authority and the same is hereby declined. File be consigned to the registry.

  
Sanjeev Kumar Arora  
Member

  
Vijay Kumar Goyal  
Member  
19.12.2023