



HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 1941 OF 2023

Munish Kumar

Versus

....COMPLAINANT

Splendor Landbase Ltd.

.....RESPONDENT

**CORAM: Dr. Geeta Rathee Singh
Chander Shekhar**

**Member
Member**

Hearing: 3rd

Date of Hearing: 05.03.2024

**Present: Adv. Aseem Gupta, Id. counsel for complainant.
Adv. Shubhnit Hans, counsel for respondent through VC.**

ORDER

1. Captioned complaint was listed for further hearing on 10.01.2024; however, due to re-constitution of benches, it was heard today.
2. Today, Id. counsel appearing on behalf of complainant apprised the Authority that complaint no.705 of 2019 was filed by complainant in relation to the same facts as in the present complaint. The same was decided by the Authority on 21.11.2019 wherein, Authority directed refund

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of amount of Rs.13,00,000/- along-with interest of Rs.7,88,680/- totaling to Rs.20,88,680/-. He submitted that as per table of interest, interest amount should have been calculated to be Rs.8,88,860/-; however, it was wrongly calculated to be Rs.7,88,680/-. Thus, there was a difference of Rs.1,00,000/- in the calculation of interest. Further, execution application was filed bearing no.559 of 2020 in the court of Adjudicating Officer at Haryana Real Estate Regulatory Authority, Panchkula, wherein he claimed the entire amount of Rs. 21,88,680/- but the respondent paid the amount which was directed by Hon'ble Authority i.e., Rs.20,88,680/-, thereby making a deficit of Rs.1,00,000/-. Ld. counsel for complainant submits that since execution application was filed during covid period when the courts were working online, therefore, he was not able to get the order rectified. Therefore, he seeks refund of Rs.1,00,000/- along-with interest of Rs.7,79,782/- for the delay period.


3. Authority observes that final order in complaint no.705 of 2019 was passed in 2019 for which complainant had the right to file rectification application in view of power under section 39 of the Act, 2016. As per section 39 of the Act, 2016, power has been bestowed upon the Authority to rectify and amend any order passed by it for mistake apparent from record, if such mistake is brought to notice by the parties within a period of two years. However, complainant *acquiesced* to such order when he filed an execution application before the court of Adjudicating Officer at Haryana Real Estate



Regulatory Authority, Panchkula. Moreover, present complaint that has been filed is on the same facts and same cause of action as of complaint no.705 of 2019 due to which rule of *res judicata* applies on the resent complaint.

4. Furthermore, as per section 44 of the Act, 2016 any person aggrieved by any direction or order or decision of the Authority or Adjudicating Officer, may prefer an appeal to the Appellate Tribunal, within time as prescribed. Therefore, appropriate remedy that lies with the complaint is filing of appeal before the Appellate Tribunal.
5. In view of above observation, captioned complaint is **dismissed**, with liberty to file an appeal before appropriate forum.


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DR. GEETA RATHEE SINGH
[MEMBER]


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CHANDER SHEKHAR
[MEMBER]