



contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

#### A. UNIT AND PROJECT RELATED DETAILS

2. The particulars of the project, the details of sale consideration, the amount paid by the complainant, date of proposed handing over the possession, delay period, if any, have been detailed in the following table:

S.No.	Particulars	Details
1.	Name of the project	TDI City, Panipat
2.	Name of the promoter	TDI Infracorp (India) Ltd
3.	RERA registered/not registered	Registered vide no. 40 of 2017 dated 10.08.2017
4.	DTCP License no.	121 of 2012 and 5 of 2017
	Licensed Area	70.328 acres
5.	Unit no.(plot)	C-37
6.	Unit area	500 sq. yds.
7.	Date of allotment	07.03.2013
8.	Date of builder buyer agreement	24.04.2018
9.	Due date of offer of possession (30 months)	24.10.2020
10.	Possession clause in	.....However, if the possession of

*[Handwritten Signature]*

	BBA (clause 27)	the plot is delayed beyond a period of 30 months from the date of execution hereof and the reasons of delay are solely attributable to the wilful neglect or default of the Company then for every month of delay, the purchaser shall be entitled to a fixed monthly compensation/ damages/ penalty quantified @ Rs.5 per square foot of the total super area of the plot. The purchaser agrees that he shall neither claim nor be entitled for any further sums on account of such delay in handing over the possession of the plot.
11.	Total sale consideration	₹ 62,80,702/-.
12.	Amount paid by complainant	₹ 64,20,625/- as per final statement of account dated 15.02.2018 annexed as Annexure C-4 to complaint.
13.	Offer of possession	No offer.
14.	Occupation certificate	Not obtained.

### B. FACTS OF THE COMPLAINT AS STATED IN THE COMPLAINT

3. Facts of complaint are that the complainant and Mahander Singh S/o Puran Chand jointly booked a plot no. C-37, measuring 500 sq. yds., situated at 'TDI City, Panipat' with the respondent and in pursuance of it, the respondent had issued allotment letter dated 07.03.2013 in





favor of both i.e. complainant and Mahander Singh in equal shares. Thereafter, Mahander Singh expressed his intention to complainant that he is not interested to purchase said plot and thereby failed to deposit the intallments of said plot in the office of respondent. For payments, respondent had issued several demand letters to the Mahander Singh and complainant. In this regard, complainant has received a final notice dated 22.04.2015 from office of respondent.

4. Complainant approached Mahander Singh and requested him to deposit the amount of plot qua his half share but Mahander Singh refused to pay any of the amount and told the complainant that he is not interested to purchase the said plot and requested the complainant to purchase the entire plot in his name. In furtherance of it, an oral settlement was arrived at between the Mahander Singh and complainant to the effect that the complainant will make the payment to the respondent on his own towards the sale consideration to complainant and Mahander Singh will submit all the relevant documents with the respondent to transfer the hundred percent share including the 50% share of Mahander Singh in favor of complainant. In compliance of oral settlement, complainant had paid Rs 6 lakhs in cash and Rs 2 lakhs in account of Mahander Singh on the basis of confidence among them. Later on Mahander Singh submitted all the relevant documents-No objection certificate and affidavit cum



undertaking and indemnity bond with respondent to transfer his share in favor of complainant.

5. That complainant moved an application to the office of respondent to deposit the balance amount as per instalments and the said application was allowed by the respondent and the complainant started to make payments of plot in question in the account of the respondent by transferring the amount through RTGS or by way of cheques. It is stated that the complainant paid the amount qua the share of Mahander Singh and therefore Mahander Singh has got no right, title, or interest in the said plot. It is further submitted that respondent is regularly collecting the maintenance charges towards the plot in question from complainant.
6. That on the basis of undertaking given by Mahander Singh, the entire plot including the 50% share of Mahander Singh was transferred in the name of complainant and the respondent executed plot buyers agreement dated 24.04.2018 with complainant. Perusal of said agreement is enough to show that this was executed by the respondent with the complainant alone and Mahander Singh is having no right, title or interest in the plot in question.
7. That thereafter Mahander Singh became greedy and due to his ulterior motive he had filed a suit for declaration to the effect that the plaintiff (Mahander Singh) is lawful owner in possession of half share of suit



property/unit no. C-37 plot situated at TDI City Panipat wherein the present complainant has been impleaded as defendant no. 3. It is stated that Mahander Singh has no concern with the plot after transferring his rights qua the plot in question in favor of complainant by moving application and submitting requisite documents with the respondent. Complainant is the absolute and exclusive owner of possession of the plot in question.

8. Greivance of the complainant is that the respondent is refusing to execute the conveyance deed in favor of complainant and is also not handing over possession of the plot to the complainant by making a lame excuse that the civil suit filed by Mahander Singh is pending, despite the fact that no injunction/stay is operating in that case/civil suit. Therefore, complainant is left with no other option but to approach this Authority. Hence the present complaint has been filed.

#### **C. RELIEF SOUGHT**

9. Complainant in his complaint has sought following relief:
- i. Direct the respondent to execute the conveyance deed in favour of complainant and to hand over the possession with immediate effect.

#### **D. REPLY SUBMITTED ON BEHALF OF RESPONDENT**

Learned counsel for the respondent filed reply on 19.07.2022 pleading therein:





10. That one Mahander Singh S/o Puran Chand had filed a civil suit no. 221 of 2019 before the Court of Smt. Sushma, Ld. Civil Judge, Panipat and the same is fixed for 25.07.2022 for plaintiff evidence and the present complainant has also been impleaded as defendant no. 3 in the suit. The suit is for declaration to the effect that the plaintiff Mahander Singh is the lawful owner in possession of ½ share of the plot bearing no. C-37, TDI City, Panipat. In the suit the plaintiff has alleged that the plot no. C-37 situated in TDI City Panipat was booked by the plaintiff-Mahander and the defendant no. 3 (Vipin-complainant) in equal shares but later on the defendant no. 3 i.e. the present complainant has got transferred the plot in collusion with the defendant no. 1 and 2 i.e. respondent, illegally and fraudulently. In said civil suit, respondent had filed a detailed written statement stating that plaintiff-Mahander Singh himself requested for transfer of his share in the plot in favour of defendant no. 3 and submitted the required documents in this regard in the office of respondent including the request application, no objection certificate, affidavit-um-undertaking and after completion of all the formalities, the share of Mahander Singh was transferred in favor of defendant no.3 i.e complainant. Since the civil suit is pending for adjudication so the respondent is awaiting decision of the court in the said suit.



11. That the respondent has no objection and it can execute the conveyance deed in favour of complainant if the Civil Court passes any judgement to that effect or this Hon'ble Authority directs the respondent to execute the conveyance deed in favour of complainant and to handover possession of the same to the complainant subject to clearance of outstanding dues and other applicable charges.
12. That the complaint filed by the complainant is not maintainable against the respondent and this Authority has no jurisdiction to entertain the present complaint.

**E. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENT**

13. During oral arguments learned counsel for the complainant insisted upon passing directions to respondent to get conveyance deed executed in favor of complainant stating that Mahander Singh has already given up the right/title/interest of his share of plot in question in favor of complainant. He further stated that it is the Mahander Singh who had filed civil suit before Civil Court Panipat not the complainant and there is no stay in said suit to decide present complaint. Learned counsel for the respondent reiterated arguments as were submitted in written statement and further submitted that respondent is awaiting decision of Civil Court otherwise has no objection to get conveyance deed executed in favor of complainant.





**F. ISSUES FOR ADJUDICATION**

14. Whether the complaint is maintainable before this Authority or not?
15. Whether the complainant is entitled to the relief sought by him or not?

**G. OBSERVATIONS AND DECISION OF THE AUTHORITY**

16. The Authority has gone through the rival contentions. In light of the background of the matter as captured in this order and also the arguments submitted by both parties, Authority observes as follows:

(i) Respondent in its reply has raised an objection that the present complaint is not maintainable against the respondent and Authority does not have jurisdiction to deal with this case. However, reasons/basis for said objection has neither been specified in written statement nor being argued at time of final hearing. Mere writing of objection pertaining to maintainability is not sufficient to reject the complaint. Objection pertaining to maintainability must be substantiated with proper reasons, which is not been done in this case. So, said objection is vague in nature and cannot be taken into consideration without proper basis/grounds.

(ii) Factual matrix of the case is that complainant alongwith Mahander Singh got allotted plot in question C-37 situated in respondent's project-TDI City, Panipat vide allotment letter dated



07.03.2013 in their joint names which is evident from copy of allotment letter annexed as Annexure C-1 to complaint. But later on Mahander Singh refused to make the payments qua his share of plot to complainant and expressed his intention of not keeping the plot any further. So, complainant and Mahander Singh arrived at an oral settlement wherein complainant has chosen to pay towards the sale consideration of plot qua the share of Mahander Singh and in exchange of it, the Mahander Singh will submit all requisite documents with respondent to transfer his 50% share of plot in favor of complainant. To substantiate the transfer, the complainant in his complaint is relying upon documents submitted by Mahander Singh which are annexed as Annexure C-5 (colly) at page no. 20-26. First, at page no. 20 there is an application for request of transfer addressed to Taneja Developers and Infrastructure Panipat Ltd. which is signed by Mahander Singh stating therein that 'I wish that the aforesaid flat which is held by me be transferred to Mr. Vipin Kumar. You are requested to add his name as the true owner of the said plot from now onward'. Second, at pg n. 21 is no objection certificate duly signed by Mahander Singh. Third, at pg no. 22 there is an affidavit cum undertaking signed by Mahander Singh, followed by pg no. 23 and 24, on said pages aadhar card of Mahander Singh and Pan card of Mahander Singh is attached respectively. Fourth, at page no. 25 and



26, is indemnity bond dated 04.01.2018 signed by Vipin Kumar wherein it is stated that 'Mr. Mahander has made a booking for a 500 sq yds flat/plot in the beneficiary's (respondent) future projects at TDI City acknowledged vide receipt no. RN/HR/1720 dated 10.11.2012. Mr. Mahander requested the beneficiary to record the name of executant in respect of the aforesaid booking'. In pursuance of said documents/request by Mahander Singh, respondent executed builder buyer agreement dated 24.04.2018 only with the complainant-Vipin Kumar. However, Mahander Singh had filed a **civil suit bearing no. 221 of 2019** for declaration to the effect that he is lawful owner in possession of 50% share of plot in question. In said suit complainant was being impleaded as defendant no. 3 and there complainant is duly representing his case. But complainant felt aggrieved on account of respondent's denial to handover possession of plot and execution of conveyance deed in favor of complainant. Therefore, present complaint was filed in year 2021 seeking direction against respondent to handover possession of plot and to get conveyance deed executed in favor of complainant. Stand of respondent is that civil suit for title and ownership of plot in question is pending before Civil Court Panipat so decision of said suit is awaited. However, if Civil Court or this Authority orders possession and conveyance deed of plot in question can be handed over to complainant. Now, at this stage question arises





herein is that whether present complaint filed in year 2021 by complainant can be adjudicated by the Authority despite the fact that share in subject matter i.e. plot C-37 in question is challenged before Civil Court Panipat by one of allottee-Mahander Singh of plot. As per allotment letter annexed with the complaint, it is clear that Mahander Singh was co-allottee of Plot no. C-37 alongwith complainant but later on builder buyer agreement was executed by respondent only with complainant on 24.04.2018 as is evident from copy of builder buyer agreement annexed as Annexure C-7 to complainant. But as per version of complainant, said builder buyer agreement was executed only with complainant because Mahander Singh had already submitted requisite documents for transfer of his 50% share qua plot in question in favor of complainant on the basis of their oral settlement. Said requisite documents are annexed at page no. 20-26 with the details already discussed in above paragraph. As a matter of practice/trend in real estate sector, respondent should have issued letter or any other form of communication to complainant that now after considering request for transfer of share from co-allottee Mahander Singh the 50% share of plot of co-allottee is also being transferred in your name and you are the only allottee of plot no. C-37. Version of complainant that he is the only owner/allottee of 100% share of plot after transfer application by Mahander Singh and execution of builder buyer

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agreement dated 24.04.2018 cannot be relied upon at the stage where the documents referred in support of case are prima facie doubtful and the share of subject matter-plot in question is itself challenged before Civil Court. This Authority decides the cases/disputes in summary proceedings, wherein authenticity of documents cannot be verified as detailed stages of civil suit like cross-examination, calling of witnesses and expert opinion upon disputed are not involved here. Therefore, this complaint cannot be adjudicated at this stage when ownership of plot C-37 is itself in question- as to whether complainant is the only allottee or plot is still owned by two allottees i.e. Mahander Singh and complainant. Inter-se dispute between the co-allotees of plot pending since year 2019 before Civil Court, Panipat is a legal hurdle which cannot be surpassed/overlooked to decide this case on merits. Ownership rights of plot cannot be ignored for passing any direction to respondent as it is a matter of legal proposition as to who is and who is not the owner of plot and of how much respective shares of plot. Hence, no relief cannot be awarded to complainant.

17. In view of aforesaid observations and conclusion, the present complaint is held not maintainable before this Authority at the stage when civil suit pertaining to ownership rights of plot is pending before Civil Court, Panipat.



18. **Dismissed.** File be consigned to record room after uploading of order on the website of the Authority.

  
.....  
**NADIM AKHTAR**  
[MEMBER]

  
.....  
**DR. GEETA RATHEE SINGH**  
[MEMBER]

