



PROCEEDINGS OF THE DAY		6
Day and Date	Tuesday and 30.07.2024	
Complaint No.	CR/1608/2021 Case titled as San Garments Manufacturing Private Limited VS. ABW Suncity	
Complainant	San Garments Manufacturing Private Limited	
Represented through	Shri Mohit Kumar Bafna, Advocate	
Respondent	1. ABW Suncity La Lagune 2. ABW Infrastructure Limited 3. Suncity Projects Private Limited	
Respondent Represented through	None	
Last date of hearing	Application for Recalling Order	
Proceeding Recorded by	Naresh Kumari and HR Mehta	
Proceedings-cum-order		
<p>The aforesaid complaint was dismissed vide proceeding-cum-order dated 27.02.2024 being non-maintainable on the ground that the documents including the builder buyer agreement, payment and possession of the unit are under dispute before Civil Court, Gurugram in case bearing no. CS-1165-2020 filed by the respondent. While dismissing the complaint, the authority granted liberty to the complainant to file a fresh complaint in case the cause of action so arises after determination of above issue. The relevant extract of proceeding is reproduced below:</p> <p><i>The present complaint is not maintainable in view of the documents including the BBA, payment and possession of the unit which are under dispute before the Civil Court in case no. 1165 of 2020. In view of the above, the present complaint is dismissed being not maintainable with liberty to the complainant to file a fresh complaint in case the cause of action arises after determination of the above issues.</i></p> <p>On 05.04.2024, the complainant-applicant has filed an recall application of the proceeding-cum-order dated 27.02.2024 stating that the said Civil Suit</p>		

before Civil court, Gurugram was disposed of on 31.05.2023 i.e., way before the order of the authority dated 27.02.2024. The relevant portion of the order dated 31.05.2023 is reproduced below:

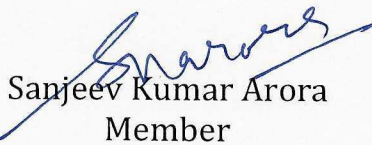
"12. Hence, it becomes clear in view of Arbitration Clause 75 contained in the alleged Apartment Buyer's Agreement dated 04.05.2015 that the matter is required to be heard by the arbitrator. The mentioning of Arbitration Clause in the alleged Apartment Buyer's Agreement dated 04.05.2015 is suggestive of the fact that parties can get their disputes settled in arbitration by appointing an arbitrator.

*13. In view of the above discussion, the present application is hereby **allowed**. The parties are directed to proceed for arbitration for their claims, if any. File be consigned to records after due compliance."*

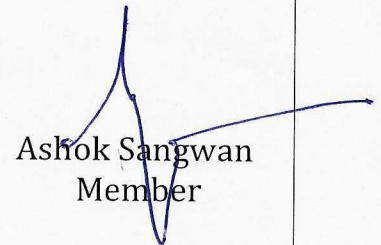
After considering the documents available on record as well as submissions made by the parties, the Authority observes that the said order dated 31.05.2023 was never put on record before the Authority by either of the parties. Moreover, there is no provision in the Act under which the Authority can recall its own order.

In view of the above, the present application stands dismissed being not maintainable. However, the complainant may file a fresh complaint in lieu of the liberty already granted to him by the Authority vide order dated 27.02.2024 if the cause of action so arises.

File be consigned to the registry.


Sanjeev Kumar Arora
Member


Arun Kumar
Chairman
30.07.2024


Ashok Sangwan
Member