

PROCEEDINGS OF THE DAY		10
Day and Date	Wednesday and 12.03.2025	
Complaint No.	MA NO. 69/2025 in CR/5581/2023 Case titled as Laxmi Narain and Sunita Rani VS Signature Global India Private Limited	
Complainant	Laxmi Narain and Sunita Rani	
Represented through	Shri Ashish Budhiraja Advocate	
Respondent	Signature Global India Private Limited	
Respondent Represented	Ms. Tanya Advocate	
Last date of hearing	Application u/s 39 of the Act	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings-cum-order

1. The above-mentioned matter was heard and disposed of vide order dated 08.01.2025 wherein, the Authority directed the respondent to pay delay possession charges to the complainants against the paid-up amount at the prescribed rate of 11.10% p.a. for every month of delay from the due date of possession, i.e., 21.02.2022 till the date of offer of possession plus two months, i.e., till 28.05.2023 as per Section 18(1) of the Act of 2016 read with Rule 15 of the Rules, 2017.

2. The complainant has filed an application dated 29.01.2025 for rectification of the said order and proceedings dated 08.01.2025 stating that the said order was pronounced on 08.01.2025 and the case was disposed of with the following order:

*"The respondent is directed to pay delay possession charges at the prescribed rate of interest i.e., 11.10% p.a. for every month of delay on the amount paid by the complainants to the respondent **from the due date of possession 21.02.2022 till the date of actual handing over of possession i.e., till 11.04.2023** as per proviso to Section 18(1) of the Act read with Rule 15 of the Rules....."*



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New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.डब्ल्यू.डी. विश्राम गृह. सिविल लाईंस, गुरुग्राम, हरियाणा

The complainant states that the actual date of handing over of possession is 11.04.2024 and same is inadvertently mentioned in proceedings dated 08.01.2025 to be 11.04.2023.

3. Further, in para no. 26 of the detailed order dated 08.01.2025, delay possession charges are granted till offer of possession plus two months, i.e., 28.05.2023 or date of actual handover of possession i.e., 11.04.2024, whichever is earlier. It is important to note that this paragraph of the judgment is factually wrong and in contradiction with proceedings dated 08.01.2025 and same needs to be rectified.

"26.As such the complainant is entitled to delay possession charges at rate of the prescribed interest @ 11.10% p.a. w.e.f. 21.02.2022 till the date of offer of possession (28.03.2023) plus two months i.e., 28.05.2023 or actual handing over of possession (11.04.2024), whichever is earlier. The date of offer of possession plus two months being earlier than the date of actual handing over of possession, the complainant is entitled to delay possession charges at rate of the prescribed interest @ 11.10% p.a. w.e.f. 21.02.2022 till the date of offer of possession (28.03.2023) plus two months i.e., till 28.05.2023 as per proviso to Section 18(1) of the Act read with Rule 15 of the Rules, ibid."

Similarly, para I of the directions of the Authority also needs to be rectified.

4. During the course of hearing today, the counsel for the respondent submitted a reply to the said application wherein it is stated that that the rectification sought by the complainants would lead to a substantive change in the judgment and decree dated 08.01.2025, which is beyond the scope of rectification under Section 39 of the Act. Further, it is apparent on the face of it that there is no factual error in the above-mentioned para 26 of the judgment, moreover, any change or rectification made to the said para would amount to a substantial change in the nature of the decree and the judgment by the Authority. The detailed order dated 08.01.2025 categorically notes that the date for calculation of the interest shall be till the date of the offer of possession plus two months or the actual handing over of possession, whichever is earlier, and in the present matter the earlier date shall be the date of the offer of possession plus two months. Hence, the requirement for rectification of the judgment does not arise as the date for calculation shall be the date of the offer of possession plus two months, i.e. 28.05.2023. Since, the said date is mentioned accurately and correctly in the judgment dated 08.01.2025, there is no requirement for rectification in the said order. Also, the Hon'ble Supreme Court in the matter of "**Century Textiles Industries Ltd. vs. Deepak Jain and Ors. (20.03.2009**

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- SC) : **MANU/SC/0419/2009**", held that even under the Civil Procedure Code, 1908 the court's power to rectify errors is limited to correcting clerical or arithmetical mistakes arising from accidental slips or omissions. It does not extend to reconsidering the merits of the case. This provision is founded on the legal maxim *actus curiae neminem gravabit*, meaning that an act of the court should not prejudice anyone. Therefore, making changes beyond the correction of an apparent error, especially those affecting the merits of the case, would exceed the court's authority.

5. Before proceeding with the matter, it would be appropriate to refer to the provisions of Section 39 of the Act, 2016 under which the present application has been preferred.

"Section 39: Rectification of orders

"The Authority may, at any time within a period of two years from the date of the order made under this Act, with a view to rectifying any mistake apparent from the record, amend any order passed by it, and shall make such amendment, if the mistake is brought to its notice by the parties:

Provided that no such amendment shall be made in respect of any order against which an appeal has been preferred under this Act:

Provided further that the Authority shall not, while rectifying any mistake apparent from record, amend substantive part of its order passed under the provisions of this Act."

6. In the factual matrix of the present case, the respondent had obtained the obtained occupation certificate on 25.01.2023 from the competent authorities and offered possession to the complainants on 28.03.2023. Thereafter, conveyance deed was also executed between the parties on 25.09.2023 and possession was handed over to the complainants on 11.04.2024. In terms of proviso to Section 18(1) read with section 19(1) of the Act, 2016, the due date of offer of possession being earlier than the date of actual offer of possession, the complainants are entitled to delay possession charges at rate of the prescribed interest @ 11.10% p.a. w.e.f. 21.02.2022 till the date of offer of possession (28.03.2023) plus two months i.e., till 28.05.2023.

7. The Authority inadvertently mentioned in its proceedings dated 08.01.2025 that the complainants are entitled to delay possession charges till the date of actual handing over of possession. However, while preparing its detailed order dated 08.01.2025, the Authority taking cognizance of its inadvertent error had itself clarified that delay possession charges are

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payable only till offer of possession plus two months, i.e., till 28.05.2023 and not till the date of actual handing over of possession. The relevant part of same is reiterated as under:

***Note:** It has been inadvertently mentioned in POD dated 08.01.2025 that "The respondent is directed to pay delayed possession charges at the prescribed rate of interest i.e., 11.10% p.a. for every month of delay on the amount paid by the complainants to the respondent from the due date of possession 21.02.2022 till the date of actual handing over of possession, i.e., till 11.04.2023 as per proviso to Section 18(1) of the Act read with Rule 15 of the Rules, ibid...."*

8. Therefore, it had been inadvertently recorded in the proceedings dated 08.01.2025 that the complainants are entitled to delay possession charges till that the date of actual handing over of possession i.e., till 11.04.2023.

9. The Authority is of the view that there is no error in the detailed order passed by the Authority dated 08.01.2025. The complainants are entitled to the relief of delay possession charges against the paid-up amount at the prescribed rate of 11.10% p.a. for every month of delay from the due date of possession, i.e., 21.02.2022 till the date of offer of possession plus two months, i.e., till 28.05.2023 as per Section 18(1) read with section 19 (1) of the Act of 2016 and Rule 15 of the Rules, 2017. Further, this Authority cannot re-write its own order and lacks the jurisdiction to review its own order as the matter in issue has already been heard and decided by this Authority.

10. This order shall be read as part and parcel of the final order dated 08.01.2025.

11. Rectification application stands **disposed of**. File be consigned to the registry.

Ashok Sangwan
Member
12.03.2025