

<b>PROCEEDINGS OF THE DAY</b>		<b>16</b>
Day and Date	Tuesday and 04.03.2025	
Complaint No.	MA NO. 1054/2024 in CR/6170/2022 Case titled as Bawa Mahinder Singh VS EXACT Developers And Promoters Private Limited & Vipul Limited	
Complainant	Bawa Mahinder Singh	
Represented through	Shri Mayank Grover Advocate	
Respondent	EXACT Developers And Promoters Private Limited & Vipul Limited	
Respondent Represented through	Dr. Vipin Kumar Dwivedi Advocate for R1 Shri Rishabh Gupta Advocate for R2	
Last date of hearing	Application u/s 39 of the Act/25.02.2025	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

### Proceedings-cum-order

The present complaint has been filed on **14.09.2022** and the reply on behalf of the respondent was received on 12.01.2023 and the same was disposed off vide order dated 02.02.2024, while observing as under:-

- i. *The respondent/builder is directed to refund the paid-up amount after deducting 10% of the sale consideration being earnest money along with interest @10.85% p.a. on the refundable amount from the date of filing of complaint i.e., 14.09.2022 till the dates of its payment.*
- ii. *A period of 90 days is given to the respondent to comply with the orders of the Authority and failing which legal consequences would follow.*

Now, the legal representative of the complainant has filed an application dated 19.12.2024, under section 39 seeking impleadment of the legal representative of the complainant i.e., Bawa Mahinder Singh. That the complainant (Bawa Mahinder Singh) had passed away on 26.10.2023, but the counsel for the complainant was unaware of the said fact even on the other hand the legal heirs of the complainant was unaware of the subject matter. On 02.02.2024, this Authority has allowed the relief of refund of amount paid by the complainant to



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हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

MA/1054/2024/CR/6179/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी. डब्ल्यू. डी. विभाग गृह, सिविल लाईन्स, गुरुग्राम, हरियाणा

the respondent no. 1 after deduction of 10% of the earnest money and upon granting of such relief the counsel for the complainant for conveying the said order had called the complainant but received the response from the legal heir who apprised the counsel about the said demise of the complainant and told the counsel they were unaware of the present proceeding and the counsel engaged by her husband as they were under grief of the loss of the deceased complainant (Bawa Mahinder Singh).

On 04.02.2025, the respondent no. 2 stated that it has no objection to allow the application for impleading of the LR's.

The respondent no. 1 filed the reply of the said application dated 18.02.2025, stated that Shri Bawa Mahinder Singh died during the pendency of the proceedings. The LR's of Shri Bawa Mahinder Singh did not disclose fact of his death at the time of arguments before this Authority even after petition being reserved Judgement/order. Even they did not move appropriate application to bring LR's on record. The original complaint itself got abated under order 22 Rule 3(2) of CPC, 1908. Further, under Article 126 description no. 120 of the limitation Act the period limitation prescribed for filing application to bring on record, LR's of the deceased is 90 days and the said limitation starts from the death of party concerned. The Section 88 of the Act of 2016, mandates that the provision of RERA Act, shall be in addition to and not in derogation of the provisions of any other law for the time being in force. That CPC 1908, has application in the proceedings before this Authority as settled by this Authority and Hon'ble Supreme Court of India.

Arguments heard.

The Authority observed that rule 28(2) of the rules provides that the Authority shall follow summary procedure for the purpose of deciding any complaint. The Authority will not go into these technicalities as the authority follows the summary procedure, therefore, the rules of evidence are not followed in letter and spirit. Prima facie, the said application is made out under section 18 of the Act, 2016 in favour of the complainants-allottee and after considering the legal heir's certificate cum surviving member certificate dated 17.11.2023 issued by the competent Department, the Authority does not see any irregularity in the present application. Thus, the objection of the respondent no. 1 w.r.t maintainability of application stands rejected. However, it is to be made clear that this order is without prejudice to the rights of legal heirs.



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MA/1054/2024/CR/6170/2022


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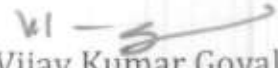
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The rectification application is allowed. This order shall be read as part and parcel of the final order dated 02.02.2024.

File be consigned to the registry.

Ashok Sangwan  
Member

  
Arun Kumar  
Chairman  
04.03.2025

  
Vijay Kumar Goyal  
Member