HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

1. RECTIFICATION No. 1329 of 2024

IN

COMPLAINT NO. 133 OF 2022

Selvi K M — COMPLAINANT(ALLOTTEE)

Versus

TDI Infrastructure Ltd. — RESPONDENT(APPLICANT)

2. RECTIFICATION No.1330 of 2024

IN

COMPLAINT NO. 136 OF 2022

Harit Pant — COMPLAINANT(ALLOTEE)

Versus

TDI Infrastructure Ltd. — RESPONDENT(APPLICANT)

3. RECTIFICATION No.1326 of 2024

IN

COMPLAINT NO. 613 OF 2022

Evneet Kaur — COMPLAINANT(ALLOTEE)

Versus

TDI Infrastructure Ltd. — RESPONDENT(APPLICANT)

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

Date of Hearing: 19.11.2024

Hearing: 1st

Present:- Adv. Sushil Kumar, Ld. Counsel for complainants through VC

Mr. Rahul Diwan, proxy for Adv. Shubhnit Hans, Counsel for applicant through VC

ORDER

1. Present rectification applications no. 1329 of 2024,1330of 2024 and 1326 of 2024 have been filed by the applicant/respondent u/section 39 of RERA ACT,2016 seeking rectification/review of the final order dated02.07.2024 passed by the Authority in complainant no.133 of 2022 ,136 of 2022 and 613 of 2022 titled as Selvi K M v/s TDI Infrastructure Ltd., Harit Pant v/s TDI Infrastructure Ltd. and Evneet Kaur v/s TDI Infrastructure Ltd. respectively on accounts of error /mistake.
2. Following error are pointed out by respondent-
   i. *It is submitted by the respondent that order of refund of excess amount of Rs.4,21,525/- in complaint no. 133 of 2022, Rs. 4,66,556/- in complaint no. 136of 2022, Rs.4,15,148/- in complaint no.613 of 2022, collected from the complainant on account of electrical and*

fire fighting charges is not valid as Ld. Authority had fails to observe that complainant had only averred in the complaint that the EFFC obtained from the complainant was illegal as the developer has already signed an agreement with DTCP to provide electricity and to install fire fighting equipment at the time of issuance of license but the said agreement between respondent and DTCP has never been produced by complainant.

ii. *Order for refund of the excess amount of Rs.14,027 /- in complaint no. 133 of 2022, Rs. 15,940/- in complaint no. 136 of 2022, Rs.23,379 /- in complaint no.613 of 2022, collected from complainant on account of preferential location charges is not valid as the Ld. Authority had failed to observe that the PLC charged by respondent company from the complainant was charged as a percentage of the BSP at the time of signing of the BBA which is subject to change due to any imposition of or enhancement of any other taxes, charges or levies by the state or central govt. or for that matter change in super area by the respondent company.*

iii. *Amount charged for an area over and above 1390 sq.ft in complaint no. 133 of 2022, 1520 sq.ft.in complaint no. 136 of 2022, 1390 sq.ft. in complaint no.613 of 2022, is not valid. It is submitted that the observation given by the Ld. Authority while deciding the present issue is inconsistent with judgment previously delivered by the predecessor bench of this Ld. Authority in the case of Vivek Kadyan v/s TDI Infrastructure Pvt. Ltd. in complaint no.607of 2023.Therefore, it is submitted that even though a law has been laid down by the Ld. Authority on a particular, the same has not been followed.*

iv. *Club is common for whole project. That in the event the club membership charges paid by the complainant are waived, the complainant shall forfeit its right to the club membership and will no longer be entitle to utilize its facilities. The complainant in this regard must give an undertaking that complainant or any member of family will not use it.*

3. Ld. Counsel for complainants (allottees) appeared and stated that this rectification application is not maintainable as there is no mistake in order dated 02.07.2024.

4. On perusal of application it is reveals that applicant/promoter i.e. TDI Infrastructure Ltd. is not seeking any rectification of typographical error, but he is seeking review of the order by requesting the Authority to reconsider its order as he is disputing that certain submissions of applicant have been overlooked/not considered at the time of calculating certain amounts while disposing the main complaint no. 133 of 2022,136 of 2022, 613 of 2022. Thus, those submissions be reconsidered and fresh calculations be made accordingly.

5. Authority observe that as per Section 39 of RERA ACT, 2016 Authority is mandated to rectify mistakes apparent from record. Section 39 reproduces here below-

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. Authority observes, that the present applications are in the nature of review application wherein applicant promoter "TDI Infrastructures Ltd." is praying before the Authority to reconsider its earlier decision. Thus, in view of the provision u/section 39 of RERA ACT, 2016 both the captioned applications are **disposed of as decline**. File may be consigned to record room after uploading order on the website of Authority

CHANDER SHEKHAR
[MEMBER]

Dr. GEETA RATHEE SINGH
[MEMBER]