


Subject: **Execution No. 17 of 2020 Titled As Rupa Sikka Vs. Parsvnath Developers Ltd. and Anr.**

It is brought to the kind notice of the Chair that on dated 06.01.2020, a complaint was filed by the complainant seeking compensation under Section 71 of RERA Act, 2016 read with Rule 29 of HRERA Rules, 2017, which vide order dated 05.07.2022, was adjourned sine die because of repeated non-appearance of complainant despite directions given through her counsel to appear in person. It is further submitted that present complaint has remained sine die till date without there being any action taken on the part of complainant to avail opportunity given vide order dated 05.07.2022, to get it revived. It is further submitted that it is one of the oldest complaint available on record with this office, hence, requested to revive the same to pass an appropriate order in accordance with law.


Sourabh
Law Associate

Present:- None for the complainant.
None for the respondents.

1. The ibid office report perused.
2. The concerned file is got summoned from the record to pass an appropriate order as the same was adjourned sine die with liberty to the complainant to get it revived, as per order dated 05.07.2022 passed by Id. Predecessor of this Forum.


15/7/2025

3. The office as per its ibid report, has requested to pass an appropriate order in this complaint adjourned sine die as the complainant has not elected to get it revived for the last more than three years.
4. Before deciding the fate of present complaint, it would be apt to reproduce the last order dated 05.07.2022 passed by learned Predecessor of this Forum, which would help to take the judicious decision on the question as to whether or not the present complaint be disposed of for want of non-prosecution on the part of complainant for almost three years as of now and also prior thereto. The same reads as under:

".....Despite availing a number of opportunities, complainant has not appeared either in person or through video conferencing. A date is requested by learned counsel for complainant to produce evidence on behalf of complainant, which is strongly opposed by learned counsel for respondent.

2. Perusal of file shows that present complaint was filed on 06.01.2020. None was present on behalf of complainant on 12.03.2020 for addressing arguments on maintainability of complaint. Till 26.05.2020 the case was being adjourned because of outbreak of COVID-19 and later on it was listed on 27.08.2020. After decision of maintainability of complaint and after filing of reply, on 04.03.2021 the case was adjourned for filing of rejoinder. Even after availing a number of opportunities, rejoinder was not filed by the complainant and on 07.07.2021 case was adjourned for 27.07.2021 for evidence of complainant. Even after availing number of opportunities, not even a single document has been tendered in evidence nor complainant has appeared to adduce her evidence. Learned counsel for the complainant has drawn attention of the Court towards copy of Memorandum of Understanding submitted by learned counsel for respondent and has stated that he does not agree with the said settlement as no settlement was arrived at between the parties. He has drawn attention of Court towards order dated 19.01.2022 passed in

Phal²ik
15/5/2025

the present complaint in which opportunity was given to complainant to file her evidence if no settlement has been arrived between the parties. It is pertinent to mention here that even after placing on record the copy of Memorandum of Understanding allegedly signed by the complainant, case has repeatedly being adjourned for presence of complainant. In the absence of complainant it could not be verified as to whether the said Memorandum of Understanding has been signed by the complainant or not. On the last date of hearing after giving last opportunity to the complainant it was clarified that if complainant does not appear either in person or through video conferencing, the complaint would be adjourned sine die. Despite that the complainant has not bothered to appear. Learned counsel for complainant has stated that complainant is not in touch with her counsel. Though learned counsel for the complainant has insisted on a short date, but record shows that complainant has not appeared even after repeated specific directions of the Court.

3. In these circumstances, the present complaint is adjourned sine die. The complainant is at liberty to revive the present complaint as and when she moves an application. It is made clear that without her signatures, complaint would not be revived only on application filed by learned counsel for the complainant."

5. The perusal of file indicates that since dated 26.02.2020, the complainant never appeared despite her requirement sought by learned Predecessor of this Forum. However, sometimes her counsel had appeared but without any effective assistance to learned Predecessor of this Forum to decide the question of maintainability so raised earlier.

It is a matter of record that since the date of passing of order of adjourning the complaint sine die on dated 05.07.2022, till date the complainant did not appear in person or has applied for revival of complaint herself, to let this Forum know whether or not the application of the respondent

moved under Section 151 CPC seeking withdrawal of present complaint allegedly signed by complainant i.e., Rupa Sikka, supported with an affidavit dated 09.12.2021 of her's, copies of which were sent to learned counsel for complainant through mail, were actually signed by her. In fact, she despite having been given opportunity to appear to accept the execution of such application as well as affidavit, did not appear till adjournment of the complaint sine die and also for the last two and half years till date, by availing opportunity to get the complaint revived, to present her dissent to such request of withdrawal. In the given circumstances, this Forum do not deem it justified to wait for appearance of the complainant to get the complaint revived, presuming that she has supported the request of withdrawal because of settlement. Infact, had she been interested in disputing these documents, there was no reason on her part to keep silent or remain inactive so long during proceedings or thereafter, in respect of continuity of the complaint.

It is pertinent to mention here that this Forum do not deem it appropriate to issue fresh notice to complainant before disposing of present complaint because record is full of instances which indicates that there had been effective orders including seeking appearance of complainant in person for proceedings but complainant did not deem it appropriate to honor the repeated directions of learned Predecessor of this Forum to appear in person or to lead


4
Phalik
13/5/2025

evidence or to admit or deny aspect of settlement. In other words, despite having been given sufficient opportunities to appear in person to avail the right of hearing, complainant did not elect to avail the same, thus, disentiitling herself to be summoned again before disposal of present complaint.

6. In view of the foregoing discussion, the present complaint after having been re-summoned from the record, is ordered to be disposed of for want of prosecution on the part of the complainant.

7. Let the file be consigned to the record room after uploading the order on the website of the Authority.

Sourabh
Law Associate


.....
MAJOR PHALIT SHARMA
ADSJ (Retd.)
ADJUDICATING OFFICER
15.05.2025