

PROCEEDINGS OF THE DAY
23

Day and Date	Tuesday and 18.02.2025
Complaint No.	MA NO. 612/2024 in CR/7246/2022 Case titled as Mapsko Paradise Residence Welfare Association VS Mapsko Builder Private Limited
Complainant	Mapsko Paradise Residence Welfare Association
Represented through	Ms. Sakshi Chahar Advocate
Respondent	Mapsko Builder Private Limited
Respondent Represented	S/Shri Sumesh Malhotra and Pawan Bhardwaj Advocates
Last date of hearing	Application u/s 39 of the Act/7.1.2025
Proceeding Recorded by	Naresh Kumari and HR Mehta
Proceedings The respondent-builder filed an application dated 04.09.2024 under section 39 of the Act of 2016 seeking rectification /correction in order dated 23.07.2024. It stated that the proceedings dated 23.04.2024 categorically recorded the fact that the operation and maintenance of the project in question along with common areas stands handed over to the association of allottees i.e. complainant, vide Handover Agreement dated 14.01.2023, effective from 01.01.2023. Further, the order dated 23.04.2024 also records the reliefs prayed by the complainant vide their complaint. It is pertinent to note that in	



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MANO 612/2024 IN CRJ-T246/2022

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

the entire complaint or pleadings thereafter, the complainant did not plead any relief qua IFMS, as the same was to be dealt by the parties in terms of the handover agreement. However, in the order dated 23.07.2024, a direction qua IFMS has been passed directing the respondent to share details of IFMS with the complainant. The said direction is beyond the complaint and the prayer sought therein. Further, it is wrong to suggest that details of IFMS are not with the complainant, in fact details of IFMS and the adjustments to be made by the respondent on account of recoveries were shared with the complainant vide the handover agreement dated 14.01.2023, which is on record as Annexure R/4. Therefore, the respondent having duty towards the Authority, has filed the instant application to bring to the notice and, therefore, seeks rectification/correction in the said Order.

On the other hand, the counsel for the complainant-association stated that the applicant-promoter is trying to invoke "review jurisdiction" which is contrary to the provisions of the Act, 2016. She further states that the relief regarding IFMS was very much part of the reliefs sought in the complaint filed by the association under para 1 which was "*Direct the respondent to handover of the project to the complainant in consonance to the conditions mentioned in notice dated 02.08.2022*". She further stated that the notice dated 02.08.2022 clearly asks for giving the account of IFMS of each allottee and to give back the IFMS of each allottee without any deduction.

The Authority observes that the contention made by the counsel for the complainant-association is supported by the pleadings on record. However, the Authority also observes that the respondent has also brought to the notice of the Authority vide application dated 26.09.2024, that in a petition filed for



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appointment of arbitrator, the Hon'ble High Court of Punjab and Haryana in arbitration petition no. 217 of 2023 titled as "Mapsco builders Pvt. Ltd. and another V/s Paradise owner Association vide order dated 06.09.2024 have appointed Mr. Justice Ramendra Jain (Retd.) as arbitrator to adjudicate the claims of the respondent and the said arbitration also includes recovery and setoff of IFMS by the respondent among other claims.

In view of the above, the application for rectification filed by the respondent is not maintainable as there is no error apparent from record which has been brought to the notice of this Authority and therefore, the application under Section 39 is declined. However, the relief regarding IFMS would be subject to the arbitration proceedings pending before the Arbitrator appointed by the High Court of Punjab and Haryana.

Application under Section 39 stands disposed of as above.

Matter stands disposed of. Detailed order on the main complaint will follow.

Ashok Sangwan
Member

Arun Kumar
Chairman
18.02.2025

Vijay Kumar Goyal
Member