

PROCEEDINGS OF THE DAY
16

Day and Date	Tuesday and 28.01.2025
Complaint No.	MA NO. 979/2024 in CR/584/2021 Case titled as Madhukar Mishra VS Athena Infrastructure Limited
Complainant	Madhukar Mishra
Represented through	Shri Avinash Sharma Advocate
Respondent	Athena Infrastructure Limited
Respondent Represented	Shri Rahul Yadav Advocate
Last date of hearing	Application u/s 39 of the Act
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings-cum-order

The complaint no. CR/584/2021 in case titled as Madhukar Mishra VS Athena Infrastructure Limited, was disposed of vide order dated 02.03.2022 with the directions for payment of delayed possession charges from the due date till handing over of possession or offer of possession plus two months whichever is earlier.

An application for rectification of the said order was filed u/s 39 of the Act, 2016 by the respondent on 13.03.2024. The said application was decided by the authority vide proceedings-cum-order dated 22.10.2024 in the following terms:

"On perusal of the documents placed on record and submissions made by the parties, the authority observes that since as per order dated 02.03.2022 the DPC have been awarded by the authority from due date of possession i.e., 05.04.2015 till handing over of possession or offer of



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MANO 979/2024 INCR/584/221

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

possession plus two months whichever is earlier in para 65 & 66(i) of the said order. However, para 66(ii) provides for the payment of arrears of interest accrued within 90 days from the date of order and thereafter the monthly payment of interest shall be paid till handing over of possession whereas, the monthly payment of interest should have been paid till handing over of possession or offer of possession plus two months whichever is earlier.

In view of the facts stated above and arguments advanced by the parties during the course of hearing dated 22.10.2024, the Authority observes that section 39 deals with the rectification of orders which empowers the authority to make rectification of any mistake apparent from the record and make such amendment, if the mistake is brought to its notice by the parties. However, rectification cannot be allowed in two cases, firstly, orders against which appeal has been preferred, secondly, to amend substantive part of the order.

Since the present application neither involves amendment of substantive part of the order nor any appeal has been preferred therefore, the said application seeking rectification in the direction passed by the authority in para 66(ii) of the order dated 02.03.2022."

Now the complainant has filed an application dated 06.12.2024 for rectification of the order dated 22.10.2024 stating that the complainant had raised an objection of limitation but the same was not taken into consideration by the Authority while passing the said order dated 22.10.2024.

Arguments heard.

On perusal of the documents on file, it is seen that the contention of the complainant that he had filed a reply is correct and it was inadvertently mentioned in the proceedings-cum-order dated 22.10.2024 that the complainant filed to file a reply. It is also observed that the complainant had taken an objection to the fact of limitation in the said reply. However, having considered the facts of the case, the Authority reiterates its order dated 22.10.2024 which is simply reaffirming the findings recorded in the said



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MANO 9/19/2024 INCR/584/2021

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order to be made part of the directions contained in the order. In view of the above the application filed by the complainant is dismissed.

Ordered accordingly. File be consigned to registry.


Ashok Sangwan
Member


Arun Kumar
Chairman
28.01.2025


Vijay Kumar Goyal
Member