



# HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

## 1. COMPLAINT NO. 1804 OF 2023

Nisha Vasdev

....COMPLAINANT

VERSUS

Vatika Ltd.(Mindscapes, Sector-27, Faridabad)

....RESPONDENT

**CORAM:**

**Parneet Singh Sachdev**  
**Nadim Akhtar**  
**Chander Shekhar**

**Chairman**  
**Member**  
**Member**

**Date of Hearing:** 08.05.2025

**Hearing:**

6<sup>TH</sup>

**Present: -**

Mr. Ashish Jhamb, Counsel for the complainant  
through VC  
Ms. Vertika H. Singh, Counsel for the respondent  
through VC.

### ORDER (PARNEET S. SACHDEV-CHAIRMAN)

1. As per office record, respondent has filed its reply to the amendment application in registry on 16.04.2025 with advance copy supplied to complainant.
2. Perusal of file reveals that complainant by filing of amendment application on 02.12.2024 added relief clause (b) (i) which is – “Award assured returns of Rs 40,000/- per month and interest @12% p.a. from October,2018 till the possession is handed over to the complainant”.

Respondent objecting to it stated that said application is seeking material amendments in the complainant which cannot be permitted at such belated stage. Further, it has been stated that since complainant has sought amendment qua the prayer clause of the complaint, the valid and legal course of action would be to withdraw the complaint and file a fresh one.

3. Authority after hearing submissions of the parties and perusing relevant record observes that complainant-litigant should not be forced to pursue multiple litigations merely for the reason that one relief clause needs to be added by the allottee. Moreover, there is no harm/loss of any kind is caused to respondent if amendment application stands allowed. So, the contention of respondent of not allowing any amendment at this stage does not hold any merit. Hence, application filed by complainant seeking amendment of relief sought is appropriate in light of facts and circumstances of the case and aforesaid discussion. In support, reference is made to para 16 and 17 of judgement dated 21.07.2020 passed by Hon'ble Real Estate Appellate Tribunal in Appeal no. 349/2019 titled as 'M/s Cosmos Infra Engineering India Pvt Ltd vs Teena Sood & Varun Sood'.

Relevant paras are reproduced below for reference:-

*"16. We do not find any substance in the contentions raised by the learned counsel for the appellant that the respondents/allotees could not give up the claim at the appellate stage. The claim can be abandoned or substituted or scale down at any stage of the lis. Though the strict provisions of the Code of Civil Procedure, 1908 are not applicable to the proceedings under the Act, yet the principles*



*provided therein are the important guiding factors. Order XXIII Rule 1(1) of the C.P.C reads as under:-*

*“ ORDER XXIII*


*WITHDRAWAL AND ADJUSTEMENT OF SUITS*

*1. Withdrawal of suit or abandonment of part of claim- At any time after the institution of a suit, the plaintiff may as against all of any of the defendants abandon his suit or abandon a part of his claim: Provided that where the plaintiff is a minor or other person to whom the provisions contained in rule 1 to 14 of Order XXXII extend, neither the suit nor any part of the claim shall be abandoned without the leave of the Court”*

*17. The aforesaid provisions clearly show that at any time after the institution of the suit, the plaintiff may abandon his suit or a part of his claim against all of any of the defendants. Thus, the respondents/allotees being dominus litis can choose to abandon the relief of refund and to claim the alternative/substituted relief for grant of interest for delayed possession at any stage, which is clearly an exercise by the respondents/allotees within the purview of Order XXIII Rule 1 (1) C.P.C and is legally permissible. Reference can be made to cases *Shri Umakant B. Kenkre & Another vs Shri Yeshwant P. Shirodkar & others*, 1999(30 BomCR 611 and *Gurmeet Kaur & others versus Hardeep Singh and another*, 2005 (2) R.C.R (Civil) 149.”*

4. Today, Ld. counsel for complainant insisted for the relief of monthly assured return as prayed in complaint. On the other hand, ld. Counsel for the respondent apprised the Authority that respondent-promoter had filed a petition before Hon'ble Punjab and Haryana, High Court vide CWP No. 26740 of 2022 titled as *Vatika Ltd v. Union of India and Anr*, which is now listed for hearing on 25.08.2025, wherein the question relating to jurisdiction of this Authority to decide the matters pertaining to assured returns is pending for adjudication.

5. Learned counsel for the respondent further stated that judicial propriety demands that when the matter is under consideration before a higher court, the lower courts, tribunals and authorities should refrain from passing any further orders and should wait for the outcome of the appeal under consideration of the higher court.
6. Keeping in view the aforesaid circumstances, the Authority decides to await the outcome of the writ petition.
7. Further, respondent is directed to provide status of unit in order to ascertain the fact that whether possession can be handed over of the unit or not? Said status be provided by respondent before the next date of hearing. Further, respondent is directed to file plan of the whole floor on which complainant's unit is located and out of that which space is earmarked for complainant's unit.
8. Case is adjourned to 04.09.2025.

  
CHANDER SHEKHAR  
[MEMBER]

  
NADIM AKHTAR  
[MEMBER]

  
PARNEET S. SACHDEV  
[CHAIRMAN]