

PROCEEDINGS OF THE DAY
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Day and Date	Tuesday and 12.08.2025
Complaint No.	CR/3101/2024 Case titled as Kala Sheoran VS Manglam Multiplex Private Limited
Complainant	Kala Sheoran
Represented through	None
Respondent	Manglam Multiplex Private Limited
Respondent Represented through	Ms. Shriya Takkar and Ms. Meenal Khanna Advocates
Last date of hearing	15.07.2025
Proceeding Recorded by	Naresh Kumari and HR Mehta

Proceedings

The present complaint was filed on 24.07.2024. The counsel for the respondent has filed an application for dismissal of the complaint on the ground that the complainant has already filed a complaint with respect to the subject unit before the DCDRC, Gurugram vide consumer complaint bearing no. 956 of 2023 and the same is pending adjudication before it. The complainant has filed the present complaint before the authority seeking possession of the unit and other reliefs. However, the vacant possession of the said unit has already been handed over to the complainant on 13.09.2024. The alleged reliefs claimed by the complainant arise out of the same transaction and from the same cause of action. The complainant has to place all his claims before the court in one suit as Order 2 Rule 2 CPC is based on the cardinal principle that no one should be vexed twice for the same cause. Pertinently, in its complaint before the DCDRC, Gurugram, the complainant has prayed for relief for interest qua the unit in question and in the meantime, the complainant has approached this authority praying for possession of the unit alongwith interest. The complainant's act of filing different complaints before different forums constitutes forum shopping.

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The counsel for the complainant has filed reply to the application for dismissal of complaint wherein he has submitted that the reliefs sought in the present complaint and the complaint before DCDRC, Gurugram are totally different and the cause of action is also different. The present complaint has been filed when the applicant-respondent refused to give possession unless complaint before DCDRC is not settled whereas the complaint before DCDRC was filed when the respondent stopped payment of the amount agreed to be paid per month till application of occupation certificate.

It is observed that the complainant has filed the present complaint seeking possession of the apartment along with delay possession charges under section 18(1) of the Act, 2016 and the reliefs being sought from the DCDRC, Gurugram are with regard to payment of pending discount/rebate amount of Rs.7,28,456/- offered by the respondent vide written commitment/comfort letter dated 24.02.2023 alongwith interest, payment of interest on amount of Rs.21,74,886/- illegally recovered on 16.08.2023, refund of Rs.61,589 illegally recovered as late payment charges, Rs.50,000/- towards cost incurred and Rs.5,00,000/- towards compensation for harassment and mental agony.

After considering the above, the authority is satisfied that the aforesaid discount being offered to the complainant has a nature of delay compensation which was supposed to be paid to the allottee till application of occupation certificate and the essence of both of the complaints are same and have the same cause of action. Therefore, subsequent complaint on same cause of action between the same parties of the matter already sub-judice before the court of competent jurisdiction is clear abuse of the process of law and is barred by the principle of res sub-judice as provided under Section 10 of the Code of Civil Procedure, 1908 (CPC). Section 10, CPC is reproduced as under for ready reference:

*"10. Stay of suit.—No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in [India] have jurisdiction to grant the relief claimed, or in any Court beyond the limits of [India] established or continued by [the Central Government ***] and having like jurisdiction, or before [the Supreme Court].*

Explanation. —The pendency of a suit in a foreign Court does not preclude the Courts in [India] from trying a suit founded on the same cause of action."



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम
नया पी. डब्ल्यू. डी. विश्राम गृह, मित्रलि लाईम, गुरुग्राम, हरियाणा

New PWD Rest House, Civil Lines, Gurugram, Haryana

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Moreover, where two remedies are available for the same relief, the party to whom such remedies are available has the option to elect either of them, but it cannot exercise both options simultaneously.

The authority is of view that though the provisions of the Code of Civil Procedure, 1908 (CPC) is, as such, not applicable to the proceedings under the Act, save and except certain provisions of the CPC, which have been specifically incorporated in the Act, yet the principles provided therein are the important guiding factors and the authority being bound by the principles of natural justice, equity and good conscience has to consider and adopt such established principles of CPC as may be necessary for it to do complete justice. Moreover, there is no bar in applying provisions of CPC to the proceedings under the act if such provision is based upon justice, equity and good conscience.

Thus, in view of the factual as well as legal provisions, the present complaint stands dismissed being not maintainable. File be consigned to the registry.

Ashok Sangwan
Member

Arun Kumar
Chairman
12.08.2025