



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

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

PROCEEDINGS OF THE DAY		38
Day and Date	Tuesday and 05.08.2025	
Complaint No.	CR/1002/2023 Case titled as Laxman Singh Yadav VS Landmark Apartments Private Limited	
Complainant	Laxman Singh Yadav	
Represented through	None	
Respondent	Landmark Apartments Private Limited	
Respondent Represented	Shri Ravinder Sharma AR	
Last date of hearing	13.05.2025	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings-cum-order

The present complaint was filed on 15.03.2023 and application for dismissal of complaint was filed by respondent on 21.02.2024. Further, reply to the application for dismissal of complaint was filed by complainant on 18.03.2024. None present on behalf of complainant.

The respondent vide its application for dismissal of complaint has submitted that the present complaint is not maintainable and barred by the principle of res-judicata, Order 2 Rule 2, CPC and also under the law of limitation as the complainant has previously filed a complaint bearing no. 952 of 2018 seeking assured return as per the MoU along with identical relief and the Authority has already decided the said complaint vide order dated 31.01.2019. Therefore, a subsequent complaint is not maintainable before this Authority under the above-said provisions.

The complainant vide his reply to the dismissal application has submitted that relief sought in both the complaints are entirely different and are not overlapping. Further the relief sought in the former complaint was contractual relief which has been claimed on the basis of MoU entered between the parties, whereas the relief claimed in the instant complaint is a statutory relief evolving from the Act and Rules. Moreover, the former complaint was not decided on



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CR/1002/2023

merits rather the Authority has directed the parties to settle the issue of payment of assured return.

Pleadings are on record.

The Authority has gone through all the documents placed on record by the parties. The complainant earlier filed a complaint bearing CR/952/2018 seeking assured return and possession of the subject unit, same was disposed off vide order dated 31.01.2019. The directions of the said order are reproduced below:

- (i) *The complainants and respondent are advised to settle their matter w.r.t. assured return as per clause 4 of the MoU.*
- (ii) *Since, the project is not registered, as such, notice under section 59 of the Act ibid for violation of section 3(1) of the Act ibid be issued to the respondent. Registration branch is directed to do the needful*

Thereafter, the complainant filed an application u/s 39 of the Act, 2016 on 16.11.2020 for rectification of the said order dated 31.01.2019. The said application was disposed off with directions mentioned herein below:

"Regarding direction No.1, the complainant may file execution petition if compliance has not been done.

Regarding direction No.2, the planning branch should take immediate action. Ms. Geeta Rathee, the Planning Co-ordinator and legal co-ordinator check up the status of proceedings. If proceedings has not been initiated then immediate disciplinary action be taken against the concerned planning executive and despite repeated directions from the Authority, registration not been got done then the criminal proceedings be launched in the court of competent jurisdiction, apart from conclusion of penal proceedings already initiated by the authority. The application for rectification of order is not clear, therefore the same is rejected.

Rectification Relief no. 1 sought by the applicant affects the substantive part the order and thus is not maintainable and relief no.2 is not justified as what is mentioned in in the order is same. Subsequently, relief no.3 cannot be deliberated upon as it has already been decided by the authority.

Application stands disposed off accordingly. File be consigned to registry."

Now herein, the complainant has filed the instant complaint seeking delay period interest pertaining out of the same MoU dated 10.09.2008 taking plea that relief sought in previous and instant complaint are entirely different and are not overlapping. The relief sought in the former complaint has been a contractual relief which has been claimed on the basis of MoU entered between the parties, whereas the relief claimed in the instant complaint is a statutory relief evolving from the Act and Rules. The former complaint was not decided



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CR/1022/2023

on merits rather the Authority has directed the parties to settle the issue of assured return.

The Authority is of the considered view that the present complaint is not maintainable. The complainant had earlier filed complaint no. 952 of 2018 in respect of the MoU dated 10.09.2008 executed between parties, which was disposed of by a detailed order dated 31.01.2019. No appeal was preferred against the said order and therefore it has attained finality and is binding on the parties. A rectification application dated 16.11.2020 was also filed by the complainant, which was disposed off on 25.08.2022.

The present complaint is barred by the provisions of Order II Rule 2 CPC, which provides that

"Suit to include the whole claim. — (1) Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish a portion of his claim in order to bring the suit within the jurisdiction of any Court".


Having once approached the Authority, the complainant was bound to claim all reliefs arising from that transaction in earlier complaint. By filing a fresh complaint seeking additional or different reliefs, the complainant is clearly barred by Order II Rule 2 CPC.

Furthermore, since the earlier order has attained finality in the absence of any appeal, the same cannot now be reopened by way of a fresh complaint.

Accordingly, the present complaint is dismissed as not maintainable being barred under Order II Rule 2 CPC and also on account of the earlier order dated 31.01.2019 having attained finality.

Matter stands disposed off. File be consigned to registry.

Ashok Sangwan
Member


Arun Kumar
Chairman
05.08.2025