



PROCEEDINGS OF THE DAY		25
Day and Date	Friday and 12.09.2025	
Complaint No.	CR/5878/2024 Case titled as Amit Gupta VS Athena Infrastructure Limited	
Complainant	Amit Gupta	
Represented through	Ms. Vandana Aggarwal Advocate	
Respondent	Athena Infrastructure Limited	
Respondent Represented	Shri Rahul Yadav Advocate	
Last date of hearing	01.08.2025	
Proceeding Recorded by	Naresh Kumari and HR Mehta	

Proceedings-cum-order

The present complaint was filed on 03.12.2024 and the reply on behalf of respondent has been filed on 01.08.2025.

The counsel for the complainant appeared and submitted that the complainant is seeking a refund of VAT and GST. Conversely, learned counsel for the respondent appeared and opposed the relief sought by the complainant contending that the present claim is barred by the principle of the Code of Civil Procedure, 1908.

Arguments Heard.

The Authority observes that the present complaint has been filed by the complainant/allottee under the provisions of the Real Estate (Regulation and Development) Act, 2016, seeking relief regarding refund of VAT and GST.

The complainant earlier filed a complaint for the same unit numbered as complaint no. **2889 of 2019** in the authority, which has been already decided on 10.02.2022 in which they had sought only relief for delay possession charges. The cause of action for claiming other reliefs against the respondent/builder had already arisen while filing the previous complaint. After receiving occupation certificate, the possession of the allotted unit was offered to complainant on 20.11.2018. It is not the case of complainant that



HARERA
GURUGRAM

HARYANA REAL ESTATE REGULATORY AUTHORITY
GURUGRAM

हरियाणा भू-संपदा विनियमक प्राधिकरण, गुरुग्राम

New PWD Rest House, Civil Lines, Gurugram, Haryana

नया पी.एच.डी. विभाग गुरुगढ़ सिविल लाइन्स, हरियाणा

the cause of action to file the present complaint arose after the decision of the earlier complaint on 10.02.2022. Even the complainant did not take any permission to omit the reliefs now being claimed in the present complaint and sought liberty to sue afterwards in respect of portion so omitted or relinquished. Thus, the present complaint is barred by the order II rule 2 of the Civil Procedure Code, 1908. The relevant clause is produced as under:

2. 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 any portion of his claim in order to bring the suit within the jurisdiction of any court.

(2) Relinquishment of part of claim- Where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

In the light of the above-mentioned provisions, it is to be noted that the reliefs for which the present complaint has been filed ought to be taken in the earlier complaint. As order II rule 2 provides for the suit to include whole claim.

Therefore, for mentioned reasons the present complaint is liable to be dismissed.


Arun Kumar
Chairman
12.09.2025