

**BEFORE THE
TAMIL NADU REAL ESTATE REGULATORY AUTHORITY,
CHENNAI**

Quorum : Hon'ble Mr. G. Saravanan, M.A.,B.L., Adjudicating Officer,

Memo. S.R.No.263 of 2022

in

CCP No. 280 of 2021

Dr. Vandana Parvez

..... Complainant

Vs.

- (1) IVR Hotels & Resorts Pvt. Ltd.
- (2) IVRCL Ltd.
- (3) Kotak Mahindra Investments Ltd.
- (4) Kotak Mahindra Trusteeship Services Ltd.
- (5) Kotak Investment Advisors Ltd.
- (6) E. Sudhir Reddy
- (7) E. Sunil Reddy
- (8) Balarami Reddy

..... Respondents

Complainant : Party in Person
Respondent-1 : Rep. by Mr.Thriyambak J. Kannan, Advocate
Respondents-3to5 : Rep. by Mr. N. Ramakrishnan, Advocate
Respondents-2,6,7&8 : Remained absent.

Heard on : 10.10.2022

Delivered on : 31.10.2022

ORDER

The memo filed by the complainant for updating the claim amount. The complainant stated that the complaint was filed in 2018 for compensation of loss and category wise computation of the claim amount has undergone a metamorphosis, primarily owing to overarching reasons like inflation resulting in increase in the cost of material, labour cost, bank interest, transportation, etc. Hence the complainant prayed to take the updated version of the claim computation given in the memo into consideration.

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2. In the reply to the memo, the 1st respondent stated that the memo seeking for the updated claim amount is belated, inadmissible and unsustainable in law and is liable to be rejected. The petitioner can seek to update the claim amount only by way of filing an amendment petition. The petitioner has not stated any reason for the delay in filing the present memo. The memo is filed with an intention to gain unjust enrichment in the process. The revision of the claim amount under various heads is exorbitant and there is no basis and an arbitrary rate of increase in claim has been arrived at, without any document to substantiate the claim. Therefore the memo is liable to be rejected in total.

3. In the objections filed by the respondents 3 to 5, it is stated that the complainant is in the habit of filing documents in piecemeal manner apart from filing frivolous petitions/memos in the matter according to her whims and fancies without following the due process of law. Any amendment to the claim can be done only by way of filing an appropriate petition seeking to amend the original complaint. Seeking to amend the claim of compensation by filing a memo is not permissible under law. Therefore the memo is liable to be rejected.

4. Heard the complainant and the counsels for the respondents. The complainant submitted that she filed the memo for updating the claim amount and the complaint was filed by her in 2018 for compensation of loss and the category wise computation of the claim amount has undergone a metamorphosis, primarily owing to overarching reasons like inflation resulting in the increase in cost of material, labour cost, bank interest, transportation, etc. and therefore she has given the claim computation in the memo filed by her. However, the counsels for the respondents vehemently opposed the

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memo contending that the memo is not sustainable and any amendment of the claim is to be filed separately by a petition seeking amendment in the prayer of the complaint and the memo is liable to be rejected in total.

5. The word, 'memo' is the short form of the word 'memorandum'. The literal meaning of the word is that it is a note of record for future use or informal business communications or report of an agreement. It is not in dispute that the complaint was filed on 01.10.2018. Section 72 of the RERA Act which deals with the factors to be taken into account by the Adjudicating Officer makes it clear that while adjudging the quantum of compensation or interest, as the case may be, under Section 71, the Adjudicating Officer shall have due regard to the various factors detailed in the section, namely:-

- a) The amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- b) The amount of loss caused as a result of the default;
- c) The repetitive nature of the default;
- d) Such other factors which the adjudicating officer considers necessary to the case in furtherance of justice.

The RERA Act, which is a beneficial piece of legislation, makes it clear that the above factors are to be considered by the Adjudicating Officer while adjudging compensation. By the memo, the complainant wants this Forum to take into consideration the updated claim amount while deciding the question of adjudging the quantum of compensation in the main complaint. The particulars in the memo can be examined and considered only at the final stage of the case. Therefore the memo as well as the objections to the memo by the respondents can only be recorded at this stage for consideration at the time of final disposal of the complaint.

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In the result, the memo filed by the complainant and the objections by the respondents are recorded for the purpose of considering the same while disposing the complaint seeking compensation in the final order.

Sd/- 31.10.2022
G. SARAVANAN
ADJUDICATING OFFICER
TNRERA, CHENNAI

