

“This Commission can interfere with the order of the State Commission where such State Commission has exercised a jurisdiction not vested in it by law”

[Case Brief] Delhi Development Authority V/S D.C. Sharma

Case name: Delhi Development Authority V/S D.C. Sharma

Case number: Appeal number-705 of 210

Court: National Consumer Disputes Redressal Commission New Delhi

Bench: HON'BLE MR. JUSTICE V. B. GUPTA, PRESIDING MEMBER

HON'BLE MRS. REKHA GUPTA, MEMBER

Decided on: February 18, 2014

Relevant Act/Sections: Section 21, 24 of RTI act

➤ **BRIEF FACTS AND PROCEDURAL HISTORY:**

1. Brief facts are that Respondent/Complainant in response to an advertisement published by the Petitioner/Opposite Party under the name of “EXPANDABLE HOUSING SCHEME, 1996” applied for allotment of a flat, vide Application No. 014269 dated 8.10.1996.
2. As per terms and conditions of the scheme, respondent deposited a sum of Rs. 15,000/- as earnest money along with application. In the draw of lots held on 21.3.1997, respondent was allotted a flat bearing No. 440, Type-A, Sector B-4, Pocket-6, Group-2, Narela, Delhi as communicated by the petitioner vide its letter dated 12.1.2000/20.1.2000.
3. As per allotment letter, cost of the allotted flat was shown as Rs. 5,16,300/- and respondent was called to deposit initial amount of Rs. 37,946.09 by 18.7.2000. Respondent deposited a sum of Rs. 15,000/- as confirmation money with the petitioner, vide Challan No. 088115 dated 10.2.2000.

4. Therefore, respondent vide letter dated 15.2.2001 communicated to the petitioner, that he has shifted from old residence to new address and requested that any official communication pertaining to the allotted flat be entertained at new residential address.

➤ **PROCEDURAL HISTORY:**

1. Aggrieved by the order of District Forum, respondent filed an appeal before the State Commission, which allowed the same and passed the following order that they stated
2. “Appeal is therefore allowed. Respondent will return back all the amount of Rs. 30,000/- hitherto received by it, and will provide the complainant another flat of the same description, on the same condition in the same locality or nearby. In case no flat is available, the respondent DDA will pay, the appellant Rs. 30,00,000/- (Rs. Thirty Lac) because of sky rocketing prices, and since the flat was booked for Rs. 5,03,348/- in the year 1996–1997, Rs. 24,96,652/-(Rs. Twenty Four Lac Ninety Six Thousand, Six Hundred and Fifty Two only) as the escalated amount will be payable. Flat is to be allotted within 30 days, and if no flat is available, payment is also to be made within thirty days from the date of receipt of this order.”

➤ **ISSUE BEFORE THE COURT:**

1. What should be the quantum of punitive damages to be imposed upon the petitioner, for harassing the respondent for last more than 18 years without any justification?

➤ **RATIO OF THE COURT:**

1. The court stated that it fails to understand the logic of the defence taken by the petitioner, when as per petitioner's own case, the flat in question stood allotted to one Smt. Santosh Minhas in 1995, then how the respondent could be expected to deposit the cost for a non-existent flat as per schedule, by the last date on 18.6.2000. Further, instead of owning up to their mistake the petitioner even today brazenly take the plea that as the respondent had not deposited the balance amount, they cancelled the allotment for a flat which the petitioner could not have or rather should not have allotted in the first place.
2. From the above contents of the written statement, it is manifestly clear that petitioner had filed its written statement before the District Forum in a mechanical manner and without going through its contents properly, otherwise it would not have taken this plea that the complaint filed by the respondent is false and frivolous. By no stretch of imagination, it can be said that the complaint filed by the respondent is false and frivolous.

3. In fact it is the defence that is false and careless. The defence of petitioner is based on falsehood and the same has been taken just to save and protect its delinquent officials, who in order to cover up their own negligence and deliberate act shifted the entire blame on the respondent. It is inconceivable that for even ten years the petitioner failed to realize its own mistake and take necessary corrective action. In this context it would be fruitful to quote the observations made by Hon'ble Supreme Court in **Dalip Singh v. State of U.P., (2010) 2 SCC 114.**
4. The state commission stated that the Forum dismissed the complaint of the appellant/complainant on the ground that since he did not deposit the residual consideration amount of Rs. 5,03,348/- he violated the contract, and he is not entitled, to any relief. And state commission do not know how and why the District Forum failed to realize, that the flat for which demand, for confirmation amount had been made, was already sold out to another person by the OP/DDA, which fact is not disputed, by the DDA, and which is in the form of reply to RTI application by the respondent/DDA which is available on record. There as such has been default in the performance of the contract by the respondent/DDA and they are therefore liable to pay all the amount received from the appellant/complainant, and to provide another flat to him, or to pay him compensation.
5. The court was satisfied with state commission's order and further, the court contended that the anguish over the manner in which petitioner being the biggest land owning agency of the capital city of this country, is bent upon depriving the respondent who was a successful allottee of the flat. Moreover, for the last about 18 years, the petitioner has made the respondent run from pillar to post, whose only fault is that he had been fighting for his legal and rightful claim.
6. It is well settled that under Section 21(b) of the Act, scope of revisional jurisdiction is very limited. Under Section 21 of the Act, this Commission can interfere with the order of the State Commission where such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.
7. It is a well-known fact that Judicial Forums across the country are saddled with large number of cases. Public/Statutory Bodies indulgences further burden them. Time and again, Courts have been expressing their displeasure at the Government/Public Bodies compulsive litigation habit but a solution to this alarming trend is a distant dream. The

judiciary is now imposing costs upon Government/Public Bodies not only when it pursues cases which can be avoided but also when it forces the public to do so.

8. Public/Statutory Bodies spent more money on contesting cases than the amount they might have to pay to the claimant. In addition thereto, precious time, effort and other resources go down the drain in vain. Public Bodies are possibly an apt example of being penny wise poundfoolish. Rise in frivolous litigation is also due to the fact that these Government Bodies though having large number of legal personnel under their employment, do not examine the cases properly and force poor litigants to approach the Court.
9. In this case, what is granted by the State Commission is the minimum relief in the facts and circumstances, that is to direct allotment of an alternative plot with a nominal compensation of Rs. 5,000/-. But instead of remedying the wrong, by complying with the decision of the Consumer Fora, the Improvement Trust is trying to brazen out its illegal act by contending that the allottee should have protested when it illegally laid the road in his plot. It has persisted with its unreasonable and unjust stand by indulging in unnecessary litigation by approaching the National Commission and then this Court. The Trust should sensitize its officers to serve the public rather than justify their dictatorial acts. It should avoid such an unnecessary litigation.

➤ **DECISION HELD BY COURT:**

1. The judgement was in view the principle of law laid down by **Hon'ble Apex Court in Bikaner Urban Improvement Trust (Supra) and in Ramrameshwari Devi (Supra)**.
2. They hereby impose punitive damages amounting to Rs. 5,00,000/- (Rupees Five Lac only) upon the petitioner for indulging in unfair trade practice and for causing undue harassment to the respondent. Out of the above amount, Rs. 2.5 lakhs (Rupees two lakhs and fifty thousand only) be paid to the Respondent/complainant by way of demand draft in his name. Balance amount of Rs. 2.5 lakhs (Rupees two lakhs and fifty thousand only) be deposited by way of demand draft in the name of "Consumer Legal Aid Account" of this Commission, within eight weeks.
3. In case, petitioner fails to deposit the aforesaid damages within the prescribed period, then it shall also be liable to pay interest @ 9% p.a., till realization.
4. Further, petitioner should recover the damages amount from the salaries of the delinquent officials who had been pursuing this meritless litigation with the sole aim of wasting the

public ex-chequer. An affidavit, duly sworn by the Vice-Chairman of Petitioner-Authority giving details of the officials from whose salaries the damages have been recovered, be also filed within eight weeks. However, the damages awarded in favour of the respondent shall be paid to him, only after expiry of period of appeal/revision preferred, if any.