

(1993) 06 NCDRC CK 0014

In the National Consumer Disputes Redressal Commission

ADMINISTRATOR, CIDCO

APPELLANT

Vs

SHAIKH MOH. MUSTAQ AHAMAD

RESPONDENT

Date of Decision : 22-06-1993

Acts Referred:

Citation : 1993 3 CPJ 1798 : 1993 3 CPR 382

Hon'ble Judges : G.G.Loney , Elipe Dharma Rao J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal against the order of the District Forum, Aurangabad dated 24.3.93 passed in Complaint No. 124/91. A complaint filed by Shaikh Mustaq against the present appellant has been allowed by the District Forum. The complainant had alleged that he has been the Chief Promoter of the proposed Beauty Hill Coop. Housing Society Ltd. at Aurangabad. The complainant had purchased the book-let regarding the plots meant for the housing society and had paid Rs. 50,000/- as deposit after submitting the required application. It is alleged that plot No. 6 of NN/11 Sector, M was allotted to the complainant society who was asked to pay the remaining amount towards the lease under two instalments. It is the case of complainant that the society asked for extension of time by an application dated 9.7.1990. The complainant, therefore, alleged that instead of replying the aforesaid letter dated 9.7.1990, the opposite party forfeited the amount of Rs. 50,000/- of the complainant society and cancelled the allotment. The complainant alleged that the allotment letter dated 11.6.90 did not contain the condition No. 22 about the forfeiture of the amount and cancellation of the allotment of the plot. According to complainant society, there has been serious deficiencies in the service of the opposite party within the meaning of Section 2(1)(o) of the Consumer Protection Act inasmuch as the penal provisions of forfeiture of the amount of Rs. 50,000/- and cancellation of the plot were invoked without hearing the complainant society. The District Forum, therefore, allowed the complaint and directed the opposite party to withdraw the forfeiture to complete the formalities to allot the Plot No. 6 the complainant within the prescribed time.

2. WE have heard Shri Bajaj, Advocate for the appellant and Shri Solanki for the respondent. After going through the impugned order and the allegations made in the complaint, we do not find that there is any ground to interfere in the impugned order. The forfeiture of Rs. 50,000/- and cancellation of plot amounts to imposition of penalty. As alleged by the complainant, the allotment letter dated 11.6.90 at Ex. "L" do not contain the Clause of forfeiture and cancellation. Moreover, we find that the opposite party before invoking the clause of forfeiture and imposing the penalty of cancellation did not hear the complainant nor replied to its letter dated 9.7.1990 at Ex. "M". In our considered view, the opposite party i.e. present appellant has been deficient in its service inasmuch as before inflicting the penalty of forfeiture and cancellation no reasonable opportunity was granted to the complainant to have their say in the matter. There has been clearly a violation of the principles of natural justice. Under these circumstances, we find that the District Forum was correct in its view to pass the impugned order. We, therefore, do not find any substance in this appeal and hence it is hereby dismissed. Appeal dismissed.