
(2005) 05 NCDRC CK 0040

In the National Consumer Disputes Redressal Commission

Case No : 226 of 1999

BULANI BUILDING CO.

APPELLANT

Vs

PRADEEP GOVINDAM

RESPONDENT

Date of Decision : 30-05-2005

Acts Referred:

Citation : 2005 2 CPC 701 : 2005 4 CPJ 183

Hon'ble Judges : K.S.Gupta , P.D.Shenoy

Advocate : Atul Sharma, K. Rajeev

Final Decision : Dismissed

Judgement

1. THIS revision is directed against the order dated 11.9.1998 of Kerala State Consumer Disputes Redressal Commission, Thiruvananthapuram dismissing appeal against the order dated 17.6.1996 of a District Forum whereby petitioners/ opposite parties were directed to provide a car shed within six months against payment of Rs. 10,000/- by the respondents/ complainants failing which petitioners were to pay to the respondents an amount of Rs. 50,000/-.

2. DISPUTE between the parties pertains to providing of car garage only. For deciding that controversy, the allegations made in complaint and written version need not be referred to in detail. Indisputedly, agreement dated 18.1.1989 (copy at pp 63-69) was entered into between the parties and Clause No. 18 thereof which is material, reads thus: "The builders have agreed to construct a shed in "A" Schedule for those purchasers who are prepared to pay an extra amount of Rs. 10,000/- for car and Rs. 2,000/- for a shed for two-wheeler and this amount is payable on demand by the builders." Expression "builders" refers to petitioners while "purchasers" to the respondents in the clause. Contents of letter dated 14.1.1995 sent by the respondents to the petitioners (Copy at p. 21) also need be reproduced and after omitting immaterial portion, those run as under: "With reference to your notice dated nil regarding scooter parking facility, I am enclosing herewith my cheque bearing No. 363260 dated 14.1.1991 drawn on the State Bank of India for Rs. 1,000/- as required. Please allot parking space in

the garage for two-wheeler scooter for me. Further as per our agreement, you are also to allot a garage to me for Rs. 10,000/-. You had also informed me, that this amount of Rs. 10,000/- will be payable to you on receipt of your demand for the same. I have, however, not received your demand for the said payment so far and have also not been allotted with a car garage so far. I request you to also look into the matter and arrange for a car garage to be allotted to me at the earliest." On 15.3.1991, respondents got a legal notice issued through Counsel to the petitioners for providing car garage. In response thereto, the petitioner sent letter dated 18.4.1991 (copy at p. 24) only stating that they had nothing to do in the matter.

On considering aforesaid Clause 18 of the agreement, letter dated 14.1.1991, reply dated 18.4.1991 and the affidavit of CW 1, the complaint was allowed by the District Forum and appeal against this order by petitioners was dismissed by the State Commission.

3. CONTENTION advanced by Mr. Atul Sharma for petitioners was that respondents had not opted for car garage during the period of construction of flat and it was only after a year of handing over of possession of flat that the letter dated 14.1.1991 came to be sent by respondents. The District Forum had, thus, acted erroneously in passing the order dated 17.6.1996 which was affirmed in appeal by the State Commission by the order under challenge. On the other hand, it was pointed out by Mr. K. Rajeev for respondents that clause similar to No. 18 was not contained in the agreements entered between the petitioners and other flat purchasers and amount of Rs. 10,000/- towards price of car garage was payable by respondents only on demand which was never made by the petitioners. He further pointed out that demand for Rs. 1,000/- for allotting parking space in garage for two-wheeler scooter was raised by the petitioner in the notice referred to in the letter dated 14.1.1991 and that amount was sent through a cheque by the respondents. Having considered the said submissions advanced by parties learned Counsel and the above material/evidence, we do not find any illegality or jurisdictional error in the orders passed by Fora below warranting interference in revisional jurisdiction under Section 21(b) of Consumer Protection Act, 1986. Revision petition is, therefore, dismissed. No order as to cost. R.P. dismissed.