
(2015) 08 NCDRC CK 0064

In the National Consumer Disputes Redressal Commission

Case No : 1490 of 2015

CHAIRMAN, RAJASTHAN HOUSING BOARD & 2?ORS Vs KISHAN LAL SHARMA

Date of Decision : 19-08-2015

Acts Referred:

Consumer Protection Act, 1986, Section 26 - Dismissal of frivolous or vexatious complaints

Citation : (2015) 08 NCDRC CK 0064

Hon'ble Judges : J.M. Malik, S.M. Kantikar

Advocate : Anuj Bhandari, S.N. Bohra

Judgement

1. There is a delay of 524 days in filing this revision petition. The delay has been explained in the application for condonation of delay in paras nos.3&4 of the application which are hereby reproduced:

"3. It is submitted that after receiving a copy of the impugned order the petitioner vide its letter dated 17-10-2013 sent instructions to the counsel for the petitioner to file the revision petition before this Hon"ble Commission. However, as the office address of the counsel for the petitioner had changed, the letter dated 17-10-2013 never reached the petitioner and, therefore, the revision petition was not filed in time. It was only when the respondent filed the contempt before the State Commission, that the petitioner inquired about the status of the Revision Petition and came to know that no revision petition has been filed. It was because of the change in address of the counsel for the petitioner that the revision petition was not filed on time.

4. Also that all the documents of the District Consumer Forum and State Commission were in Hindi and the same were translated in English which took time." The counsel for the petitioner has also invited our attention towards the letter issued by the Chairman, Rajasthan Housing Board wherein he was appointed as an advocate in this case on 17-10-2013. His old address is mentioned therein. The counsel for the petitioner submits that he should be heard on merits. He also pointed out that the State Commission had passed a

cryptic order in a cyclostyle way and such a case should be remanded.

2. All these arguments are bereft of merit. Even the story setup by the advocate first of all is not trustworthy. Secondly, if it is taken to be true what are the duties of the employees of the Rajasthan Housing Board. Why did they procrastinate these proceedings. The silence on their part is pernicious. The case pertains to the year 1980. Shri Kishan Lal Sharma had given the earnest amount in the year 1980. He wants the house for the last 35 years. The order passed by the State Commission is quite aright and the case cannot be remanded on this short submission after the elapse of such time. No explanation from the opposite party is forthcoming. It is unfortunate that our country has to deal with such like good schemes which usually collapse by the commissions and omissions of our snooty beurocracy.

3. This case is hopelessly barred by time. This view finds support from the authorities reported in *Anshul Aggarwal v. New Okhla Industrial Development Authority* , IV (2011) CPJ 63 (SC); *R.B. Ramlingam v. R.B. Bhavaneshwari*, I (2009) CLT 188 (SC)= I (2009) SLT 701=2009 (2) Scale 108; *Ram Lal and Others v. Rewa Coalfields Ltd.*, AIR 1962 Supreme Court 361; *Bikram Dass Vs. Financial Commissioner and others*, AIR 1977 Supreme Court 1221.

4. In *Sanjay Sidgonda Patil vs. Branch Manager, National Ins. Co. Ltd. & Anr.* , Special Leave to Appeal (Civil) No. 37183 of 2013 decided on 17.12.2013 , the Hon"ble Supreme Court upheld the order of the National Commission and refused to condone the delay of 13 days. In *M/s Ambadi Enterprise Ltd. vs. Smt. Rajalakshmi Subramanian* in SLP No. 19896 of 2013 decided on 12.7.2013 , the Supreme Court refused to condone the delay of 78 days and in *Chief Officer, Nagpur Housing & Area Development Board & Anr. vs. Gopinath Kawadu Bhagat*, SLP No. 33792 of 2013 decided on 19.11.2013 , the Supreme Court refused to condone the delay of 77 days.

5. The merits of this case also deserve a look because it is a classic case where the complainant/respondent could not get the house for a period of 35 years. We hope that he will get a house during his life time.

6. Shri Kishan Lal Sharma, complainant applied for a house under Hire Purchase Scheme in LIG category on 16-01-1980. He deposited Rs.1,800/- for registration. Thereafter, his income increased and he deposited Rs.2,800/- on 10-06-1982. He got his registration converted to MIG on 20-09-1993. On 07-01-1988 he had already given the intimation that he had changed his address. Thereafter on 30-06-1997 and 11-07-1997 the complainant wrote letters to the opposite party stating that if they could allot any house in the Hire Purchase Scheme then they should allot a house in Down Payment Scheme. The opposite party on 28-07-1997 informed the complainant that his registration was converted to Down Payment Scheme. The complainant sent another letter on 28-08-1997 and asked the opposite party if any amount or seed money is required to be deposited. Due to intervention of an MLA he was informed on

26-08-2011 that his registration was cancelled due to non-deposit of the seed money and his allotment was cancelled as back as on 29-07-2000.

7. At this stage the counsel for the petitioner submits that they have sent so many letters before cancelling his registration. Although, he has produced some documents on the record, yet, he admits that there is no proof that those were served upon the complainant. The bizarre conduct of the opposite party is also difficult to fathom. Although, they appear before the District Forum time and again yet, they did not file their written statement. They were proceeded against ex parte. They did not challenge the ex parte order till this stage. They are otherwise not entitled to lead any evidence or produce any document before any of the fora.

8. The District Forum found that the registration of the petitioner was not cancelled in accordance with law and directed the opposite party to allot MIG-B category house on down payment basis to the complainant at the same rate. It ordered:- "Therefore, the complaint of the complainant is accepted and the respondent is directed that they should within four months from today allot the MIG-B category house on down payment basis to the complainant the rate at which house was allotted to people just after the priority of the complainant. Additionally, the complainant is entitled to a compensation of Rs.11,000/- for mental agony and Rs.3,000/- as cost of litigation."

9. We find no illegality or infirmity in their orders. The revision petition is hereby dismissed with costs of Rs.10,000/- under Section 26 of the Consumer Protection Act, 1986 which is to be deposited with the Consumer Legal Aid A/c-NCDRC because this revision petition is frivolous and vexatious. The said amount be deposited within a period of 90 days or otherwise the learned Registrar would recover it as per law.