
(2003) 12 NCDRC CK 0072

In the National Consumer Disputes Redressal Commission

Chairman, Tamil Nadu Slum Clearance Board

APPELLANT

Vs

S. ARUMUGANATHAN

RESPONDENT

Date of Decision : 24-12-2003

Acts Referred:

Citation : 2004 2 CPJ 134 : 2004 2 CPR 587

Hon'ble Judges : A.Raman , R.Vanaroja J.

Final Decision : Appeal dismissed

Judgement

1. THE complainant is a Siddha physician. Since he did not have a house of his own, he applied for the Slum Clearance Board for allotment of a house/flat to him. THE opposite party allotted a flat No. G-5 in Perambur Barracks Scheme to the complainant. THE complainant regularly paid the instalments due. In spite of compliance of the directions of the opposite parties, they did not hand over the flat to the complainant. It is stated that the allotment to the complainant has been cancelled. THEREfore, the complainant has filed the complaint alleging deficiency in service against the opposite parties and claiming possession of flat No. G-5 or any other flat similar to it in the city. He has also sought refund of Rs. 1,675/-.

2. THE opposite parties in their version have stated thus : Door No. G-5 at Perambur Barracks Road was allotted to the complainant on 2.1.1996. THE possession has not been handed over to the complainant. That a sum of Rs. 1,675/- was paid by way of monthly instalments by the complainant is also not disputed. Certain other persons who were aggrieved by the allotment order, trespassed into the flats allotted to different persons including the complainant. THE opposite parties conducted an inquiry and the complainant was directed to produce the document to prove that he was entitled to the allotted flat under the scheme. It is found out in the course of inquiry that the complainant was not entitled to the allotted flat. After inquiry was over, it was allotted to some other person. THERE is no deficiency in service on the part of the opposite parties. Hence, the opposite parties pray that the complaint be dismissed. The lower

Forum namely District Consumer Disputes Redressal Forum, Chennai (South) accepted the complaint and directed the opposite parties to hand over possession of Flat G-5 or a similar flat and hand over possession of the same to the complainant and pay compensation of Rs. 5,000/- with cost of Rs. 500/-.

Aggrieved by the said order, the opposite parties have preferred this Appeal. When the appeal was taken on for hearing on 9.12.2003, there was no representation for the appellants. The respondent/complainant was present in person and he was heard. That the complainant was allotted a house bearing Door No. G-5 is not disputed. That he has also paid the instalments amounting to Rs. 1,675/- is also admitted. According to the appellants/opposite parties, certain other persons living in that area, aggrieved by the order of allotment made to different persons including the complainant, trespassed into the property and occupied the houses and thus it was that the house allotted to the complainant was encroached by such party and later the allotment made to the complainant was also cancelled.

3. THE lower Forum has held that the complainant is a consumer. We accept this finding because the Slum Clearance Board has been constituted to allot houses to those living in slums to better their life. That the complainant is not possessed of a house of his own and he was a poor person is not challenged. THEREfore, the finding that he was a person who was entitled to be allotted a house, qualified for such allotment, and an allotment was made to the complainant and instalments were collected. THE allotment order has been made in January, 1996. THERE is nothing to show that subsequently any inquiry was made and in the course of that inquiry, it was found that the complainant is not eligible for allotment. THEY have not produced the records to show that any such inquiry was undertaken and that any notice given before cancelling the allotment made to the complainant. In their version, it is, of course, stated that since the particulars furnished by the complainant was found to be incorrect, the allotment was cancelled. What is nature of particulars furnished by the complainant and how he did not satisfy the requirements and what is the rule that requires the particulars to be furnished and how the particulars furnished by the complainant falls short or incorrect are not at all explained or set out in the version nor any records is produced before the Forum below. It is stated that an order was passed cancelling the allotment but that order is not produced. THEREfore, there is nothing to show that the allotment has been cancelled after due inquiry or that any wrong or false particulars were given by the complainant for obtaining the allotment. As we have pointed out already the statement of the complainant that he is a poor person without a home stands unchallenged. THEREfore, it follows that being satisfied with the penurious condition of the complainant, the allotment has been made. Now it is not open to the Board to turn around to say that the allotment was wrongly made or it has been cancelled. THEREfore, the cancellation of the allotment is definitely assuming it to be true is opposed to the principles of natural justice, equity and good conscious. Having allotted a house, it is the duty of the opposite parties/appellants to see that the possession of the

said house is restored to the complainant. That they have failed to do so. On the other hand, if really certain persons of that locality trespassed into that property allotted to others, it is not stated as to why action was not taken by the Board to evacuate them. THERE is nothing to show that any complaint was lodged to the police. THERE is also nothing to show that the Board intimated this fact to the complainant. THEREfore, in such circumstances, we are of the view that this is a case where there has been a deficiency in service on the part of the Board/ opposite parties in not handing over possession after having allotted a property to the complainant and after having received instalments from him. THEREfore, in such circumstances, we have no hesitation in upholding the verdict of the lower Forum. In the result, this appeal is dismissed with costs of Rs. 250/-. The appellants/opposite parties are directed to hand over the house No. G-5 at Perambur Barracks Road to the complainant, namely the flat/house already allotted to him or if the said flat/house is not available to allot him a similar flat in the same scheme or in the neighbourhood within two months hereof. The opposite parties have also to pay compensation of Rs. 5,000/- and a cost of Rs. 500/- to the complainant as directed by the lower Forum. In the appeal, the cost is fixed at Rs. 250/-. Time for compliance : 2 months. Appeal dismissed.