

(2007) 08 NCDRC CK 0042

In the National Consumer Disputes Redressal Commission

CHANDIGARH HOUSING BOARD

APPELLANT

Vs

INDIAN EXPRESS EMPLOYEES CO-OPERATIVE HOUSE
BUILDING SOCIETY LTD.

RESPONDENT

Date of Decision : 21-08-2007

Acts Referred:

Citation : 2007 4 CPJ 176

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

Final Decision : Revision Petition dismissed

Judgement

1. -THIS revision is directed against the order dated 17.12.1999 of Consumer Disputes Redressal Commission, UT Chandigarh, dismissing appeal against the order dated 16.8.1999 of a District Forum whereby petitioner was directed to pay interest on the deposited amount of Rs. 10,21,599 from 1.7.1993 to 15.1.1995 @ 18% p.a. to the respondent.

2. SINCE the controversy between the parties centres around the liability for payment of interest solely on the deposited amount upto the date of possession of the plot was given, only few facts need be noticed. Respondent/complainant - Society was formed in 1979 for the purpose of acquiring land/houses for its members. As the petitioner/opposite party did not allot land for a long time, the respondent filed CWP No. 10008 of 1989 in the Punjab and Haryana High Court which was disposed of with direction to the petitioner to consider the claim of the respondent. Petitioner sent a letter on 24.12.1991 followed another letter dated 14.8.1992 to the respondent requiring it to deposit 25% of the premium calculated at the rate of Rs. 750 per sq. yard which was deposited by the respondent in the month of March, 1992. Further, demand was also fulfilled in June, 1993. By that time, a total sum of Rs. 10,21,599 had been deposited by the respondent. Under Clause 7 of the Scheme, the minimum number of members of a Society seeking allotment of land could not be less than 50. SINCE the respondent had only 37 members, it was grouped with Chandigarh Accredited Press Correspondents Co-operative House Building Society which had

20 members. On 31.5.1993, land was allotted to the respondent by the petitioner Board. As possession of allotted land was not given, the respondent filed complaint seeking certain reliefs which was contested by petitioner by filing written version dated 22.11.1994. During the pendency of complaint, possession of the land was given on 16.1.1995 to the respondent Society. Main thrust of argument advanced by Mrs. Rachna Joshi Issar for the petitioner Housing Board was that after the allotment of land on 31.5.1993, Chandigarh Accredited Press Correspondents Co-operative House Building Society informed the petitioner by the letter dated 9.7.1993 that one of its members wanted to withdraw from the membership. Respondent also sought screening of new 9 members. As a result, more land had to be allotted to the respondent and layout plan changed. Further, affidavits filed by some of the members of Chandigarh Accredited Press Correspondents Co-operative House Building Society were found not to be in order. All this necessitated reference to the Finance Secretary, Chandigarh Administration and after the permission was received from him the land was re-allotted on 16.12.1994 to the respondent. According to the learned Counsel though these facts were specifically taken in the Memo of Appeal but were not considered by the State Commission while passing the order under challenge. Copy of written version dated 22.11.1994 filed by the petitioner is at pages 78 to 80. To be only noticed that in the written version, plea referred to above was not taken by the petitioner. It may be because of the fact that re-allotment of land was made on 16.12.1994 and possession given on 16.1.1995 after the filing of written version. District Forum's order is dated 16.8.1999. It was open to the petitioner to have got the written version amended and the said plea incorporated therein which the petitioner Board did not do. Thus, the fact remains that there was no pleading to the above effect before the District Forum. In our view, petitioner cannot urge a plea either in appeal or revision which was not taken in the written version before the District Forum. Impugned order thus cannot be faulted on the ground referred to above and the revision deserves to be dismissed being without any merit. Accordingly, revision is dismissed. No order as to cost. R.P. dismissed.