

(1998) 04 NCDRC CK 0032

In the National Consumer Disputes Redressal Commission

ESTATE OFFICER HARYANA URBAN DEVELOPMENT
AUTHORITY

APPELLANT

Vs

SWATANTRA BALA JAIN

RESPONDENT

Date of Decision : 30-04-1998

Acts Referred:

Citation : 1998 1 CPC 615 : 1998 2 CLT 102 : 1998 3 CPJ 206

Hon'ble Judges : M.R.Agnihotri , Sushil Paul , A.D.Malik J.

Final Decision : Appeal allowed

Judgement

1. HARYANA Urban Development Authority has come up in appeal against the order dated 3.12.1997 passed by the learned District Consumer Forum, Panchkula, whereby the complaint of an allottee Smt. Swatantra Bala Jain, the owner of plot No. 1675-P in Urban Estate-II, Hissar, alleging deficiency in service against HUDA, has been allowed.

2. ACCORDING to the complainant, HUDA had issued a demand notice for a sum of Rs. 27,862-50 on 15.6.1987 followed by another demand notice for Rs. 19352-30 on 18.2.1988. Since the complainant had not deposited the said amounts, another demand notice for Rs. 1,61,310/- was received by the complainant but without any statement of accounts, which was arbitrary. In their reply, HUDA pleaded that the demands were on account of enhanced compensation under the Land Acquisition Act, which the complainant was bound to pay. Thereafter, on 5.11.1997 the complainant submitted an application before the learned Forum that she was ready to pay interest as per the provisions of the Land Acquisition Act as also to pay interest at the rate of 15% p .a. after the date of demand notices. She was also ready to forego all other prayers. ACCORDINGLY, the learned District Consumer Forum, Panchkula, disposed of the complaint by issuing the following directions: "Therefore, the present complaint is disposed of with the direction that if there are any discrepancies in the statement of accounts regarding interest or calculation then the same may be got corrected and fresh statement of accounts be prepared @ 15% simple

interest under the head of enhancement within seven days from the receipt of this order and if complainant pays the amount. No Objection Certificate be issued to the complainant within seven days from the receipt of the payment. No order for the cost. Let order be complied. Copy of this order will be sent to the parties free of costs."

In the appeal before us, the learned Counsel for HUDA has vehemently contended that apart from the merits of the case, it was evident that the plot in question was situated at Hissar and the demands had also been made by the Estate Officer, HUDA, Hissar. In view of this factual position, the complaint was not maintainable before the learned District Consumer Forum, Panchkula at all. It was further contended that this objection had prominently been taken as the very first preliminary objection in the following words : "That the Hon"ble Forum has got no territorial jurisdiction to try and entertain the present complaint because the plot in question is situated in Hissar." Again, in the body of the written statement in para 10, the objection has repeated as under : "That the para No. 10 of the complaint is wrong and hence denied. The Hon"ble Forum has got no jurisdiction to try and entertain the present complaint because the plot in question is situated at Hissar and the office of the respondent No. 1 is also situated at Hissar and the record of the plot in question is also at Hissar."

It is strange that despite this the learned District Consumer Forum, Panchkula, assumed jurisdiction and proceeded to decide the complaint on merits without first appreciating the preliminary objection, much less to deal with the same.

3. AFTER hearing the learned Counsel and having gone through the record, we are of the considered view, that the appeal deserves to be allowed and the impugned order is liable to be set aside on the short ground; that the District Consumer Forum at Panchkula lacked territorial jurisdiction to adjudicate upon a dispute arising out of a certain plot situated outside the territorial jurisdiction of Panchkula and regarding which demand for some additional payments had been made at a place outside its territorial jurisdiction. The mere fact that the complainant had impleaded the Chief Administrator of HUDA as one of the opposite parties, whose head office happens to be at Panchkula, was not enough to confer jurisdiction on the District Consumer Forum at Panchkula. Resultantly, the appeal is allowed and the order passed by the learned District Forum is set aside. The complaint is returned to the complainant-respondent to present the same, if so advised, before the District Forum, Hissar. In the circumstances of the case, there shall be no order as to costs. Appeal allowed.