

(1997) 03 NCDRC CK 0017

In the National Consumer Disputes Redressal Commission

ESTATE OFFICER, HUDA

APPELLANT

Vs

NATIONAL ENGINEERING CORPORATION

RESPONDENT

Date of Decision : 19-03-1997

Acts Referred:

Citation : 1997 0 NCDRC 38 : 1997 2 CPJ 16 : 1998 1 CPC 190

Hon'ble Judges : V.BALAKRISHNA ERADI , S.S.CHADHA , R.THAMARAJAKSHI , S.P.BAGLA , C.L.CHAUDHRY J.

Advocate : L.S.Goyal , RAJESH MAHNA , Shaili Bhasin , VINEET MAHESHWARI

Judgement

1. AFTER hearing Mr. I.S. Goel, learned Advocate, for the Revision Petitioner and Mr. Rajesh Mahna, we do not find any scope for interference with the well considered order passed by the State Commission. The facts that stare in this case are that the respondent herein had been allotted an industrial plot by the Haryana Urban Development Authority (HUDA) in the year 1984. Possession of the plot was delivered by the HUDA to the respondent and even a Conveyance Deed had been executed in its favour (respondent Corporation) on 22.10.94. It would appear that shortly thereafter a suit was instituted by the third party against the HUDA as well as the respondent herein claiming title to the said plot and seeking an injunction restraining the respondent from putting any construction thereon. The Civil Court wherein the said suit was instituted issued an order of temporary injunction which had the effect of preventing the respondent from exercising any activity for putting up his industrial factory on the said premises. Being totally frustrated in the matter of implementation of his project for establishing the industry in the said plot, the respondent made representations repeatedly to the HUDA from the year 1984 onwards requesting for the allotment of an alternate plot. In view of the litigation and the temporary injunction that had supervened in respect of the original plot conveyed to him, the HUDA took as long as nine years to act upon those representations to allot another plot to the respondent herein in a distant sector, namely Sector No. 59, the allotment order being dated 30.6.94.

2. BY this allotment order, the respondent was called upon to remit a huge amount by way of costs which exceeded the cost of the original plot by about Rs. 36 lakhs; the cost having been worked out by the HUD A at the rates which were prevailing at the time of allotment in the year 1984. Aggrieved by the said action of HUDA, the respondent approached the District Forum alleging deficiency in service on the part of the HUDA and seeking a direction against the HUDA for allotment of revised plot in its favour by working out the cost only at the original rate that was prevailing in the year 1984 that had been applied in the year 1984 while allotting the first plot to it. The District Forum after giving a due consideration of all the aspects of the case allowed the complaint filed by the respondent herein and issued a direction to the HUDA to allot the revised plot to the complainant by working out the cost at the rates which had been applied in the year 1984 in respect of that plot that was originally allotted. Aggrieved by the said order, the HUDA took the matter to the State Commission, Haryana and an appeal was filed in the complaint by the appellant. Those appeals were disposed of by the State Commission under the order now impugned before us whereby the State Commission confirmed the finding entered by the District Forum that the complainant was entitled to the allotment of the revised plot at the same cost that was demanded and paid by him in respect of the original plot allotted to him. The order of the District Forum was confirmed and both the appeals were dismissed by the State Commission. It is brought to our notice that Mr. Goel, Counsel appearing for the revision petitioner that there was a difference in the area that was originally allotted to the petitioner which was only 3782 sq. yards and the area of the plot now offered to the petitioner which has an extent of one acre equivalent to 4840 sq. yards. There is merit in the point urged by the revision petitioner that while calculating the cost, the increase in area should be duly taken into account. We uphold the said contention and make it clear that it is only in respect of 3782 sq, yards that the respondent herein shall be liable to pay the price at Rs. 15/- per sq. yard which was the price originally charged from him for the first plot and for the excess area which has now been allotted to him namely, the difference between 3782 and 4840 sy. yards, the complainant will be liable to pay the price at the rate of Rs. 425/- per sq. yard which was the rate prevailing at the time when the fresh allotment was made. The orders passed by the State Commission and the District Forum will stand modified to that extent. Subject to the modification, the revision petition will stand dismissed. No costs.