

(2001) 11 NCDRC CK 0037

In the National Consumer Disputes Redressal Commission

GULAB GOVIND KARALE

APPELLANT

Vs

CIDCO

RESPONDENT

Date of Decision : 07-11-2001

Acts Referred:

Citation : 2002 2 CPJ 207

Hon'ble Judges : M.S.Rane , V.K.Data J.

Final Decision : Appeal partly allRowed

Judgement

1. -WE are proceeding to dispose of this appeal which is filed in the year 1998 and remained to be admitted, at the stage of admission itself.

2. THE appellant is original complainant in the aforesaid complaint and not being specified with the award in his favour dated 26.9.1997 of Thane Forum, he has preferred this appeal. It is noticed from the material available before us and lengthy submission advanced before the Forum by them, that the complainant made an application for allotment of tenement to the respondent. He also paid the initial amount by instalments aggregating to Rs. 98,354/-. The said amount as stated is paid by instalments from time to time.

It is not necessary to go into detail factual aspects. It is noticed that the complainant wanted the premises to be allotted at a particular Sector which was not possible for the CIDCO, as the allotment was to be done by draw of lots. District Forum referred to the judgment of the Supreme Court in Appeal No. 717 of 1995 as also the National Forum with similar facts and circumstances as in the present case in which respondents were a party appellant holding that CIDCO cannot be compelled to allot the premises as per choice of the allottee when same is to be done by draw of lots.

3. THE District Forum while issuing the order directed the CIDCO to either allot tenement to the complainant at the prevalent rate or alternately refund the amount paid by him to the CIDCO with interest at the rate of 15% p.a. with effect from 1.4.1995. The complainant stated that he is not interested in having

allotment as made by the CIDCO vide allotment dated 10.12.1997 on the basis of the prevalent rate.

4. NOW the question remains for refund of the amount at the rate of interest as awarded. In such matter it is reasonable that interest should be awarded from the date of payment by the complainant to the CIDCO. The particulars furnished show that the complainant has paid the amount of Rs. 98,354/- as under :
Instalment Date of payment Amount 1st 26.10.1990 Rs. 15,735 2nd 27.12.1990 15,735 3rd 2.7.1991 15,735 + 236 Interest 4th 2.7.1991 15,735 5th and 6th 27.9.1991 31,470 In such situation we do not find any rational in the order of the District Forum awarding interest with effect from 1.4.1995. We modify the order accordingly. ORDER The appeal is partially allowed as under : The respondent shall refund a sum of Rs. 98,354/- to the complainant with interest calculated at the rate of 15% p.a. on the amounts from the dates of each instalment as indicated herein. As far as this appeal is concerned no order as to cost. The appeal stands disposed off. Appeal partly allowed.