
(2015) 02 NCDRC CK 0044

In the National Consumer Disputes Redressal Commission

Case No : NO 3328 of 2014

HATMAG MAHAMANDAL VINERS

APPELLANT

Vs

HEMANT

RESPONDENT

Date of Decision : 09-02-2015

Acts Referred:

Constitution of India, Article 226 -
Power of High Courts to Issue certain writs

Citation : 2015 2 CPJ 201

Hon'ble Judges : S.M. Kantikar

Advocate : S. P. Nandeshwar, S. B. Chourasia

Judgement

1. The Complainant, Sh. Hemant obtained possession of plot No. 79 on 01.07.1998 from the OP-Hatmag Mahamandal Viners Karmachari Sahakari Griha Nirman Sanstha Ltd. Nagpur for Rs.40,000/-. The OP did not execute sale deed despite several requests made by the Complainant. The Complainant approached the District Consumer Disputes Redressal Forum, Nagpur (in short, "District Forum") and prayed for a direction to the OP either to execute or to refund him Rs.40,000/- with the interest of 18% p.a. from 01.07.1998 and additional total sum of Rs.65,000/- towards the compensation and expenses. The District Forum allowed the Complaint and directed the OP to execute the sale-deed of the plot in favour of the complainant on receiving balance consideration of Rs.470/- from him and that the Complainant shall bear all the expenses of registration of the sale-deed. Alternatively, it is directed that, if OP is unable to execute the sale-deed, it shall pay price of the plot as per the Government ready reckoner rate applicable on the date of said order.

1. Aggrieved by the order of the District Forum the OP preferred First Appeal No. A/08/613 before the State Consumer disputes Redressal Commission, Maharashtra (in short, "State Commission"), which was dismissed. Hence, the OP/Petitioner filed the Revision Petition before this Commission.

1. Heard the Counsel for both the parties. The Ld. Counsel for the Petitioner, Mr.

S. P. Nandeshwar vehemently argued that the observations made by the fora below were wrong. As per the resolution passed by Society, it had already refunded Rs.40, 000/- by the cheque issued from the account of the President of the Society. Furthermore, he submits that the Society's economic condition was not good, therefore, the refund of amount was made through the President's account.

1. Both the fora decided the matter and given concurrent findings. I have perused the evidence on record, resolution passed by OP. It is transpired that, the said copy of resolution was not filed before the District Forum during pendency of the case, but it was produced before the State Commission. Therefore, such new evidence at the appeal or at revision stage is unacceptable. The evidence clearly proves that, the Complainant purchased the plot for Rs.40,000/- and as per the possession letter he had received the possession on 23.12.1998 from the OP. The OP had not produced any cogent evidence about financial status of the Society, as it was poor, at that point of time.

1. Therefore, on the basis of entirety of the facts and the evidence on record, I do not find any merit in the argument advanced by the Petitioner. It is strange that the petitioner dragged the matter from 1998 for paltry amount of Rs.40,000/-, in this context, I put reliance upon the latest judgment of Hon''ble Supreme Court in the case of Gurgaon Gramin Bank vs. Smt. Khazani & ANR. [Civil Appeal No. 6261 of 2012 @ Special Leave Petition (C) No. 8875/2010].

1. Accordingly, the Revision Petition is dismissed with a cost of Rs.10,000/- which is to be paid to the Complainant. The petitioner is directed to pay entire amount within 45 days from the receipt of this order, otherwise it will carry interest @ of 12% p.a. till its realisation. List for compliance on 15 April 2015.