

(2014) 04 NCDRC CK 0082

In the National Consumer Disputes Redressal Commission

JALANDHAR IMPROVEMENT TRUST

APPELLANT

Vs

LAKHWINDER SINGH

RESPONDENT

Date of Decision : 01-04-2014

Acts Referred:

Citation : 2014 0 NCDRC 167

Hon'ble Judges : J.M.MALIK , S.M.Kantkar J.

Advocate : SHUBHAM BHALLA

Judgement

1. SH . Lakhwinder Singh, the complainant filed a complaint against Jalandhar Improvement Trust, as he had purchased Plot No. 439-B in 170 Acres Scheme known as Surya Enclave, Jalandhar. He paid the entire consideration. The sale deed was executed in his favour on 03.06.2008 alongwith site plan. Although, five years have elapsed, yet possession was not given to the complainant by the OP. It is alleged that the petitioner is putting of the matter on one pretext or the other. Thereafter, it transpired that the OP is affixing wrong number to deliver the possession of the said plot, which is situated near Cremation Ground. The grouse of the complainant is that that premises were never agreed to be sold and it amounts to be deficiency in service. Complaint was filed that the possession of the premises with geographical boundaries as mentioned in the sale deed, be issued in his favour, rent in the sum of Rs. 50,000/- and costs of litigation in the sum of Rs. 11,000/- was claimed. The case of the OP is that the complainant himself had refused to take the possession of plot No. 493-B, Surya Enclave, Jalandhar. It is explained that due to high tension lines of electricity passing over the plot of the complainant and due to security reasons, which were never explained, the OP made some changes in the layout plan. It was admitted that the layout plan was changed as per the new layout plan. However, the petitioner was being allotted plot No. 439-B. The District Forum dismissed the complaint.

2. AGGRIEVED by that order, the complainant filed an appeal before the State Commission. The State Commission passed the following directions:- ""9. During the proceedings of the appeal, the respondent/OP had offered Plot No. 494-B

land, counsel for the appellant/complainant has expressed his willingness to take this plot, accordingly, the order passed by the learned District Forum is set-aside and the direction is given to the OP to execute the sale deed of the Plot No. 494-B in favour of the complainant. Expenses for execution of the sale deed will be borne by the complainant/appellant.

10. The parties are directed to complete the sale deed within a period of one month from the date of receipt of the copy of the order passed by the Commission and within a period of one month after execution of the sale deed the possession of the above said plot will be delivered to the complainant/appellant. The parties are directed to bear cost of the appeal.""

We have heard the counsel for the OP/petitioner, who has filed the present Revision Petition. It is stated that they did not make any statement before the State Commission. The order passed by the State Commission is the brainchild of the State Commission itself. He contended that this order runs directly from the affidavit filed by them. It is also submitted that this order was reserved for arguments on 01.11.2013 and was announced on 14.11.2013. It shows that this statement was not made extenously otherwise, this Commission could have dictated the order there and then. We find force in his arguments, in a measure. If the judgment is delayed by 13-14 days, it is the duty of the State Commission to reduce their pleadings into black and white, there and then. The matter should not have been delayed for such a long time. The State Commission should have passed the order on 01.11.2013 itself because there was no dispute.

3. LEARNED counsel for the petitioner "s arguments also however, this measure fact does not impact the case materially.

4. LEARNED counsel for the petitioner has also invited our attention towards Section 28 of the Punjab Improvement Act, which provides:- ""(v) the re-laying out of any land comprised in the scheme and the redistribution of sites belonging to owners of property comprised in the scheme. (vii) the provision of open spaces in the interests of the residents of any locality comprised the scheme or any adjoining locality and the enlargement or alteration existing open spaces.""

Again Section 43 of the said Act empowers to alter the Scheme under the Act with the prior approval of State Government. The alteration completed Under Section 43 is of such nature as it does not obliterate the earlier scheme and entirely new scheme in its place.

5. ALL these arguments have left no impression upon us. In DCM Ltd. Vs. Om Prakash Saini & Ors. In First Appeal No. 744 of 2006, the judgment rendered by the Bench headed by Justice Ashok Bhan, it was held: - ""Appellant filed the appeal and later on got it dismissed as withdrawn. Application No. 218/2012 has been filed seeking recall of the order dismissing the appeal as withdrawn. Since the appeal had been withdrawn by the appellant voluntarily, no ground for recall/restoring the appeal is made out. Dismissed.""

6. THE Petition for Special Leave to Appeal was preferred before the Supreme Court dated 01.02.2013. Same was withdrawn. We see no reason to discard judgment recorded by the State Commission. It passed the order as per the settlement reached between the parties. It must be borne in mind that the State Commissions are burdened with enough work. Even if, there was delay of 12 days in announcing the judgment, the bonafide of the learned Court cannot be doubted. The State Commission has to do a lot of work.

7. ABOVE all, the deficiency on the part of the petitioner is discernible from the facts of this case. The petitioner was allotted the first plot bearing No. 439 -B. The boundaries of the said plot mentioned in the sale deed were as follows:-
""East: Park, West: Plot No. 438-B, South: Road, North: Park and it was also accompanied with the site plan.""

8. ACCORDING to the O.P., the site plan was changed because there was firstly high tension wires of the electricity passing over the plot of the applicant and there were security reasons. Both these allegations have not been bolstered with any kind of evidence. What were the security reasons, was never explained. On the contrary, it appears that due to ulterior motive and to accommodate some V.I.P., the first plot in question was replaced. It is difficult to fathom how the sale deed can be changed. The petitioner was given the plot near the Cremation Ground. The veil of suspicion covers the bonafide of the OP. During the arguments, we had enquired what is the status of plot No. 494-B so that the interest of any party may not be affected. The learned counsel for the petitioner, after seeking instructions from the authorities, explained that the plot was to be auctioned, but due to stay, the status quo is being maintained. It is thus clear that no third party interest has yet been created.

9. ONE is bound by the provisions of Law. Law has the super most authority. Nobody can ignore the Law. However, when the Law is twisted in order to accommodate some few persons,, there lies no rub to ignore such like Laws. The Law has to be followed properly, and in good spirit. The Law should not be used in order to deprive the rights of a person. For all these reasons, we dismiss the Revision Petition. Order passed by the State Commission be complied with, within 90 days of the receipt of this order otherwise, the petitioner will have to pay penalty in the sum of Rs. 5,000/- per month, to the respondent, till the compliance of the order of the State Commission.