
(1999) 04 NCDRC CK 0014

In the National Consumer Disputes Redressal Commission

MEERUT DEVELOPMENT AUTHORITY

APPELLANT

Vs

PREM KUMAR SARDANA

RESPONDENT

Date of Decision : 12-04-1999

Acts Referred:

Citation : 1999 2 CPC 493 : 1999 2 CPJ 352 : 1999 3 CPR 353

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal against orders dated 21.1.1999 passed by the District Consumer Forum, Meerut in the Complaint Case No. 696 of 1998. The facts of the case stated in brief are that the complainant, respondent in the appeal, had applied for booking of one plot in the Shatabadi Nagar Yojna at Meerut and deposited a sum of Rs. 8,000/- on 15.9.1989. He was allotted a plot No. B-130 measuring 180 sq. mts. valuing at Rs. 81,000/-. He deposited a further amount of Rs. 20,000/- on 15.11.1989 and the rest amount of Rs. 53,000/- on 14.11.1990. He should have got the possession of the plot in the year 1992 but was surprised to receive another letter dated 13.3.1996 from the appellant allotting him another plot in a different scheme on the pretext that the development work of the area, where the previous plot was situated, could not be done. A sum of Rs. 9,600/- was further demanded as additional price of freshly allotted plot. The complainant further alleged that he had not consented for allotment of another plot and as such his money should be refunded.

2. WHEN he applied for refund of the amount, it was told to him that the amount will be refunded after deducting 20%. The appellant had no right to deduct the amount and should return the same alongwith interest of 25% per annum. He has also demanded a sum of Rs. 1,00,000/- as damages. It is alleged by the opposite party that Shatabdi Nagar Yojna is spread over a vast area of over 1600 acres and lot of time was taken in developing the same in Sector V. Possession has been delivered to several allottees after completing the development work and registration has also been done. It is wrong to say that no development work

has been done. In order to alliviate the suffering of the allottees, to whom possession could not be delivered on account of late development, fresh plots were offered in different sectors. The extra amount was sought for because of the area of the plot had been increased. If the complainant wants the money back, it can only be refunded according to rules framed by the Authority.

The District Forum after considering the case of the parties, ordered the opposite party to refund the deposited amount to the complainant alongwith interest @ 15% per annum and Rs. 500/- as cost of the proceedings.

3. AGGRIEVED against this order the complainant has come up in appeal before this Commission and has challenged the correctness of the order passed by the District Forum. , We have heard the learned Counsel for the parties and perused the evidence on record.

4. IT is abundantly clear that the possession of the plot which was allotted to the complainant originally was not given to him but another plot in another Sector was offered without the consent of the allottee. The complainant has refused to take possession of the alternative plot and had asked for refund of the entire amount. Learned Counsel for the appellant has argued that according to the Term No. 22 of the Brochure, it is written that the appellant has the right to alter the site, size and price of the plot under this scheme because at present it is provisional. We are not impressed by this argument of the learned Counsel because these provisions does not give an arbitratory power to the appellant to change the allotted plot by substituting another plot of different size and in a different Sector without concurrence of the allottee. Once an allotment is made, allottee has the right for the plot allotted to him. IT is just possible that the allottee may not like the place where subsequent plot is allotted to him and he may refuse to take the same. In that case the appellant cannot force an allottee to take possession of the plot by paying additional amount. Thus this provision does not give powers to alter the plot from one Sector to another Sector even in the same scheme. The judgment and order of the learned District Forum is perfectly correct on the face of the case and no interference is required. The appeal is therefore liable to be dismissed, It may be made clear that the interest has been awarded by the District Forum as damages in the form of interest. ORDER The appeal is dismissed and the judgment of the learned District Forum, Meerut dated 21.1.1999 is upheld. The judgment has been dictated in the presence of the party"s Counsel. Appeal dismissed.