
(2013) 02 NCDRC CK 0034

In the National Consumer Disputes Redressal Commission

M.P. State Consumer Disputes Redressal Commission APPELLANT
Vs
Dimple , Gajanand Grah Nirman Sahkari Santha Maryadit RESPONDENT

Date of Decision : 25-02-2013

Acts Referred:

Citation : 2013 0 NCDRC 192

Hon'ble Judges : K.S.CHAUDHARI J.

Advocate : Sulabh Samaiya , ASHUTOSH NIMGAONKAR

Judgement

1. THESE revision petitions have been filed by petitioner against impugned order dated 16.03.2012 passed by learned State Commission in Appeal No.1021/2011, IDA Vs. Smt.Dimple & Anr., by which while dismissing appeals, upheld the order of the District Forum allowing the complaints. As both the revision petitions arise out of common order of the State Commission, these revision petitions are decided by common order.

2. BRIEF facts of the cases are that OP was to develop the land of the Sanstha and allot plots to its Members. The complainant/ respondent Smt.Dimple was allotted plot No.365, measuring 67.50 sq.mts and complainant/petitioner Ranchodlal was allotted plot No.351 measuring 67.50 sq.mts in Scheme No.97, Part-IV/1, developed by OP/petitioner on General Conditions on lease for 30 years. Complainants paid price of the plot along with lease rent as per Agreement between OP and Gajanand Grah Nirman Sahkar Sanstha Maryadit, Indore. In spite of allotment of land, OP neither executed the lease deed nor handed over possession of the plots. Alleging deficiency on the part of OP, complainants filed separate complaints against OP in District Forum. OP resisted claim and submitted that consumer forum has no jurisdiction under section 64 of M.P. Co-operative Societies Act, 1960. Further, it was alleged that complaints are time barred and Gajanand Grah Nirman Sahkari Sanstha Maryadit is a necessary party and prayed for dismissal of complaints. Learned District Forum after hearing both the parties, allowed the complaints and directed OP to execute lease deed of the allotted plot and hand over possession within four months

along with damages to the extent of Rs.3,000/- and costs of Rs.1,000/-. Appeals filed by OP/petitioner were dismissed by learned State Commission by one impugned order against which these revision petitions have been filed.

3. HEARD learned counsel for the parties at admission stage and perused the record.

4. LEARNED counsel for the petitioner submitted that as there is dispute between the Members and the Society and some of them have obtained stay from different authorities, petitioner is not in a position to execute lease deed and hand over possession and learned State Commission has committed error in dismissing the appeal, hence petition be allowed and impugned order and order of District Forum be set aside. On the other hand, learned counsel for the respondent submitted that out of 87 plots, 70 plots have already been allotted and lease deed executed in favour of eligible Members and respondents are also eligible Members, hence entitled to get possession of plots and lease deed executed in their favour and learned State Commission has not committed any error in dismissing appeal, hence revision petition be dismissed.

5. IT is not disputed that land of Gajanand Grah Nirman Sahkari Sanstha Maryadit, was taken by petitioner/OP for development and after development, it was to be allotted to the eligible Members of the Society. It is also not disputed that out of 87 plots made available by the petitioner for allotment, complainants/respondents were also shown in the list of 87 eligible Members. In such circumstances, when complainants names appear in the list of eligible Members, they are certainly entitled to get possession of the allotted plot and also get lease deed executed in their favour. Learned District Forum has not committed any error in allowing complaint and learned State Commission has not committed any error in dismissing the appeal.

6. LEARNED counsel for the petitioner submitted that on account of stay orders obtained by some of the Members, petitioner is not in a position to hand over possession and executed lease deed. He further submitted that 63 cases are pending in various forums, including consumer forum and Sub-Registrar, Joint Registrar, Co-operative Society, merely because cases are pending in various forums, complainants cannot be denied benefit of taking possession and getting lease deed in their favour for the plots allotted to them as their names appear in the eligible list. Learned counsel for the petitioner has not placed on record stay order against remaining 17 plots and in such a situation, the petitioner is not entitled to restrain eligible Members from taking possession of their allotted plots. Petitioner is bound to hand over possession of the allotted plot and execute lease deed in their favour as per allotment letter.

7. I do not find any illegality, irregularity or jurisdictional error in the order passed by learned State Commission which call for interference and revision petitions are liable to be dismissed at admission stage.

8. CONSEQUENTLY , revision petitions filed by petitioner are dismissed at

admission stage, with no order as to costs.