
(2007) 07 NCDRC CK 0069

In the National Consumer Disputes Redressal Commission

NISHI KANT PATHAK

APPELLANT

Vs

JAI BHAWANI GRIH NIRMAN SAHKARI SAMSTHA MARYADIT

RESPONDENT

Date of Decision : 04-07-2007

Acts Referred:

Citation : 2008 4 CPJ 201

Hon'ble Judges : K.S.Gupta , P.D.Shenoy J.

Advocate : Sameep Vijayvergiya

Judgement

1. -CHALLENGE in this revision is to the order dated 7. 3. 2007 of M. P. State Consumer Disputes Redressal Commission, Bhopal dismissing appeal against an order of a District Forum whereby complaint claiming possession of a specified plot, etc. filed by the petitioner was dismissed.

2. ONLY few facts need be noticed at admission stage. Petitioner was the member of the respondent/opposite party Housing Society and a sale deed was executed in his favour on 25. 11. 1985 by the then President of the Society in respect of plot bearing No. 147, admeasuring 30 x 50 sq. fts. The plot formed part of agriculture land bearing survey No. 13/2/2 situated at Village Bawadiya within the limits of Municipal Corporation, Bhopal. At the time of execution of the sale deed the layout plan was not sanctioned by the concerned Authority nor any development work undertaken by the society. Complaint seeking possession of the said plot and cancellation of allotment in favour of other members filed by the petitioner before the District Forum was contested by the society by filing written version. It was stated that the present management of the society between the period from 1996 to 2003 after getting the layout plan sanctioned, obtaining permission for diversion of the land and colonization from the concerned authorities, developed the land in IV phases and in the meeting of General Body of the Society, fresh allotments to the members including the petitioner were made. Petitioner was allotted plot No. 3 in phase IV as per his choice. Aforesaid plot bearing No. 147 because of change in layout is no more available on the spot. It was further alleged that sale of plot No. 147 was

contrary to the provisions of M. P. Vinirdishta Bhrashta Acharan Nivaran Adhiniyam, 1982. It was also stated that there was novation of contract as provided by Section 62 of the Contract Act and the petitioner was not entitled to the reliefs claimed. We have heard Mr. Sameep Vijayvergiya for the petitioner.

It is not disputed that plot bearing No. 147 was sold on 25. 11. 1985 by the then President of the respondent society without getting the layout plan approved. It is stated that the present management of the society has developed the land in IV phases after obtaining the layout plan sanctioned and obtaining permission of diversion, colonization and development of land as required by law from the concerned authorities between 1996 to 2003. It is further alleged by the respondent that because of change in layout aforesaid plot No. 147 is not available on the spot. Petitioner is alleged to have given consent for allotment of plot No. 13 in phase IV. In view of these developments having taken place after 25. 11. 1985, the petitioner cannot claim possession of plot No. 147 which does not exist at the site now and seek cancellation of allotments in favour of other members as made by the General Body of the Society. Order of State Commission does not suffer from any illegality or jurisdictional error calling for interference in revisional jurisdiction under Section 21 (b) of the Consumer Protection Act, 1986. Accordingly, revision petition is dismissed. Revision Petition dismissed.