
(2010) 04 NCDRC CK 0061

In the National Consumer Disputes Redressal Commission

P.A.Elanko Alias A.Ellangovan

APPELLANT

Vs

Bhel Officers Housing Co-Operative Society Ltd.

RESPONDENT

Date of Decision : 22-04-2010

Acts Referred:

Citation : 2010 0 NCDRC 45

Hon'ble Judges : Ashok Bhan , S.K.Naik J.

Final Decision : Revision petition is accordingly disposed of

Judgement

1. THIS revision petition has been filed by the complainant before Consumer Disputes Redressal Commission Bangalore Urban District (for short "District Forum"). His complaint against respondent/ opposite party " BHEL Officers" Housing Co-operative Society Ltd. was that even though he had enrolled himself as a member of the Society and paid a sum of Rs.39,000/- as far back as in the year 1988, he was not allotted any plot and when the matter was raised before the respondent/opposite party vide his letter dated 1.2.2002, he was informed vide letter dated 29.4.2003 that he had ceased to be a member of the Society. The respondent/opposite party had sent him a cheque for Rs.40,800/- towards the refund of the amount deposited by him which he refused to accept contending that even after his resignation from the BHEL, his membership of the Society was valid under the bye-laws of the Society. He, therefore wanted a plot to be allotted to him.

2. THE complaint was resisted by the respondent/opposite party contending that the petitioner/complainant had failed to pay further amount towards the cost of the plot as and when called for and his membership was terminated in terms of the bye-laws of the Society. THE deposited amount, thereafter, has been duly refunded as under the bye-laws of the Society, he was not entitled to any interest. THE District Forum, on consideration of the pleas advanced by the parties and on perusal of the evidence and also holding that the respondent/ opposite party "Society did not have any plot which could be allotted to the petitioner/complainant, though directed the respondent/opposite party to allot a

site but on its failure to do so, it directed them to refund Rs.40,800/- along with interest @ 15% p.a. from the date of the receipt till its payment and also awarded a cost of Rs.5000/-. Aggrieved thereupon, the respondent/opposite party filed an appeal before Karnataka State Consumer Disputes Redressal Commission, Bangalore (for short "State Commission") who, taking into consideration that respondent/opposite party was not in a position to allot a site in favour of the petitioner/complainant, it held the decision of the District Forum to order the refund of the amount as just and appropriate. The State Commission, further observed that the petitioner filed a complaint after a lapse of two decades and in view thereof, it modified the order of the District Forum directing the respondent/opposite party to pay interest @ 6% p.a. as against 15% p.a. ordered by the District Forum from the respective dates of payment till realization. It, however, maintained the award of Rs.5000/- as cost of litigation.

Aggrieved against this order of the State Commission, reducing the rate of interest on its deposits that the complainant has filed this revision petition.

3. WE have heard Shri Rajesh Gupta who was appointed as Amicus Curiae to assist this Commission on behalf of the petitioner/complainant and also heard learned counsel for the respondent. While learned Amicus Curiae submits that the District Forum after due consideration of the facts and evidence had rightly awarded interest on the complainant's deposit @ 15% p.a., the State Commission has without any justification reduced the same drastically to 6% p.a. On the other hand, learned counsel for the respondent -Housing Society submits that it is a society formed by the employees of BHEL and it is a run for the welfare of its members on no profit and no loss basis. The deposits received from its members were utilized for the purchase of land and was paid to the Bangalore Development Authority. In that sense, the society has earned no profit and even interest on the deposits of its members. She has also referred to the petitioner/complainant having left the service of BHEL, years ago and has approached them after a period of 20 years. There was no payment after the initial deposit and the Society has rightly cancelled his membership, thus extinguishing his right for the allotment of a plot. With regard to the deposits made by the complainant, she submits that immediately on receipt of the letter, they had in their reply dated 29.4.2003, sent him a cheque for Rs.40,800/- which he refused to accept. Even, subsequently a cheque for Rs.90,308/- was sent on 12.9.2005 towards the settlement of the dues which included the interest and costs but the petitioner/complainant has not accepted the same as well. She, therefore, submits that there being no deficiency of service on part of the respondent/opposite party, the revision petition needs no interference.

4. HAVING heard learned counsel for both the parties, we take note of the fact that the petitioner/complainant, though deposited a sum of Rs.40,800/- and enrolled himself as a member of the Co-operative Housing Society, he subsequently resigned from the BHEL and further failed to deposit any amount thereafter. He appears and reappeared after a period of 20 years when the price

of the real estate had appreciated phenomenally and demanded a plot. Obviously, the Society in the absence of any payment, could not keep his membership alive. The State Commission, therefore, took notice of the fact that the respondent/opposite party was left with no plot for allotment. However, petitioner/complainant is aggrieved that rate of interest of his payment/deposits have been reduced from 15% to 6%. From the records, we find that the respondent/opposite party had calculated the interest @ 15% p.a. from the respective date of deposits and as ordered by the District Forum had sent a cheque dated 12.9.2005 amounting to Rs.90,308/- to the petitioner/complainant. Earlier, they had sent a cheque for Rs.40,800/- on 29.4.2003. Both the cheques were, however, not accepted by the petitioner/complainant for which the respondent/opposite party cannot be put to blame. Under the circumstances, the ends of justice would be met if the respondent/opposite party are directed to pay interest @ 12% p.a. on the deposits until 29.4.2003 and @ 9% p.a. thereafter till 12.9.2005 when the cheque for Rs.90,308/- was sent to the petitioner/complainant where after, he would be paid interest only @ 6% p.a. till the date of payment, as they would have utilized the petitioner's amount. The revision petition is accordingly disposed of in the terms stated above.