

(2015) 02 NCDRC CK 0131

In the National Consumer Disputes Redressal Commission

Paris Grih Nirman Sahakari Sansthan Mydt

APPELLANT

Vs

Nimba Ji Pawar

RESPONDENT

Date of Decision : 13-02-2015

Acts Referred:

Citation : (2015) 02 NCDRC CK 0131

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

Final Decision : Petition allowed

Judgement

1. THIS revision petition has been filed by the petitioner against the order dated 6.7.2012 passed by the M.P. State Consumer Disputes Redressal Commission, Bhopal (in short, "the State Commission") in Appeal No. 811/2008 Nimba Ji Pawar Vs. Paris Grih Nirman Sahakari Sanstha Mydt. by which, while disposing appeal, respondent was directed to pay price of plot to the appellant.

2. BRIEF facts of the case are that Complainant/respondent purchased Plot No. A -5 measuring 600 sq. ft. of Khasra No. 175/1/1, Village Beragarh Chichli from OP/ petitioner and paid Rs.38,570/- for purchase of aforesaid plot on 28.1.1998. OP assured for diversion of agriculture land but neither diversion was done nor possession was given. Alleging deficiency on the part of OP, complainant filed complaint before District forum. OP resisted complaint and submitted that complainant does not fall within purview of consumer as agricultural land was sold. It was further submitted that no assurance for diversion of land was given. It was further submitted that complainant can receive money from the developers to whom money was paid, but not from the OP and prayed for dismissal of complaint. Learned District Forum after hearing both the parties dismissed complaint being barred by limitation and further observed that complainant does not fall within purview of consumer and money was also not paid to the OP. Appeal filed by complainant was allowed by learned State Commission vide impugned order against which this revision petition along with application for condonation of delay has been filed.

3. HEARD learned Counsel for the parties and perused record. As there is delay

of only 2 days in filing revision petition, delay stands condoned.

4. LEARNED Counsel for the petitioner submitted that impugned order is not a speaking order and has not dealt any grounds of dismissal mentioned in the order of District forum; hence, revision petition be allowed and impugned order be set aside and matter may be remanded back to learned State Commission. On the other hand, learned Counsel for the respondent submitted that order passed by learned State Commission is in accordance with law; hence, revision petition be dismissed.

5. PERUSAL of order of District Forum reveals that complaint was dismissed as barred by limitation and complainant did not fall within purview of consumer being pertaining to agricultural land. Learned State Commission vide order dated 6.5.2011 observed that as OP was willing to allot plot to the complainant, he was directed to contact OP office bearer, but by impugned order it was observed that as order dated 6.5.2011 was not complied with, OP was directed to pay price of the plot as per Collector's guidelines.

6. IMPUGNED order neither contains facts of the case nor reasons for allowing complaint and directing OP to make payment whereas learned District Forum dismissed complaint as complainant was not falling within purview of consumer under the C.P. Act and complaint was also time barred. Learned District Forum also observed that money was not paid to the OP even then learned State Commission vide impugned order without any basis directed OP to refund price of plot.

7. HON "ble Apex Court in HVPNL Vs. Mahavir, 2001 10 SCC 659 observed as under: "1.In a number of cases coming up in appeal in this Court, we find that the State Consumer Disputes Redressal Commission, Haryana at Chandigarh is passing a standard order in the following terms: "We have heard the Law Officer of HVPN appellant and have also perused the impugned order. We do not find any legal infirmity in the detailed and well -reasoned order passed by District Forum, Kaithal. Accordingly, we uphold the impugned order and dismiss the appeal". 2. We may point out that while dealing with a first appeal, this is not the way to dispose of the matter. The appellate forum is bound to refer to the pleadings of the case, the submissions of the counsel, necessary points for consideration, discuss the evidence and dispose of the matter by giving valid reasons. It is very easy to dispose of any appeal in this fashion and the higher courts would not know whether learned State Commission had applied its mind to the case. We hope that such orders will not be passed by the State Consumer Disputes Redressal Commission, Haryana at Chandigarh in future. A copy of this order may be communicated to the Commission".

8. IN the light of above judgment, it becomes clear that Appellate Court while deciding an appeal is required to deal with all the aspects and arguments raised by the appellant and as learned State Commission has not dealt with any facts of the case and arguments of the appellant, it would be appropriate to remand the

matter back to the learned State Commission for disposal by speaking order after dealing with all the contentions and arguments raised by the parties.

9. CONSEQUENTLY , revision petition filed by the petitioner is allowed and order dated 6.7.2012 passed by the State Commission in Appeal No. 811/2008 Nimba Ji Pawar Vs. Paris Grih Nirman Sahakari Sanstha Mydt. is set aside and matter is remanded back to the learned State Commission for deciding it by speaking order after giving an opportunity of being heard to the parties.

10. PARTIES are directed to appear before the learned State Commission on 16.3.2015.