

(2012) 07 NCDRC CK 0104

In the National Consumer Disputes Redressal Commission

Prem Singh S/O Dalip Singh

APPELLANT

Vs

Chief Administrator Huda , State Officer, Haryana Urban
Development Authority

RESPONDENT

Date of Decision : 18-07-2012

Acts Referred:

Citation : 2012 0 NCDRC 375 : 2012 3 CPJ 320

Hon'ble Judges : J.M.Malik , Vinay Kumar J.

Advocate : Gautam Godara

Judgement

1. THIS revision petition swirls around the question, "Whether oustee is a "Consumer"?" The facts of this revision petition are these.

2. THE complainant Prem Singh owned agricultural land at Village Nanhere. The same was acquired by Haryana Urban Development Authority (to be referred as HUDA) for setting up a sector in Ambala Cantt. It was one of the condition that one residential plot under the oustee quota was given to the petitioner. The complainant accordingly deposited a sum of Rs. 36,329/- as earnest money. Thereafter, he received an order regarding cancellation of plot on 22.08.2008 on the basis of non-deposit of 50% amount as per letter dated 06.06.2007. The grouse of the complainant/petitioner is that he did not receive the said notice and as such the letter of cancellation was illegal and arbitrary.

3. THE petitioner did not appear before the State Commission. The State Commission accepted the appeal filed by the respondents and dismissed the complaint. Aggrieved by that order, the present revision petition has been filed.

4. THIS is an indisputable fact that the petitioner is an oustee. The National Commission vide its order dated 2nd February 2010 in the case of "HUDA Vs Uday Singh in Revision Petition No. 3456 of 2009" placed reliance upon another authority by the National Commission in the matter of "Premkanta and Ors. Vs. HUDA and Anr." held that "since the owners of land had received compensation for land acquired by HUDA, allotment of residential plot under the scheme was

only a gesture of goodwill and there being no element of hiring service for consideration of petitioner authority from respondents". It is further held in that case the petitioner being oustee did not fall in the category of "Consumer".

5. AGGRIEVED by this order, Udai Singh approached the Hon'ble Supreme Court, which dismissed the Special Leave Petition vide order dated 16.04.2010 in Petition (s) for Special Leave to Appeal (Civil) No (s). 10379/2010.

6. WE have perused the judgment of this Commission reported in "Premkanta and Ors. Vs. HUDA and Anr. [III (2008)CPJ146(NC) " . In para 5 it was held . "Under the scheme formulated by respondent Authority, the oustees whose land had been acquired, are entitled for allotment of residential plots of the size depending upon the area of the land acquired subject to their making application(s) along with 10% of earnest money. Decision to allot plot(s) is taken by the Standing Committee. It is not in dispute that the petitioners had received compensation for the acquired land. Allotment of residential plot under the scheme is made as a gesture of goodwill. No element of "hiring of service for consideration" of the respondent authority by the petitioners is involved in such allotment. Petitioners, thus, cannot be regarded as "consumers" within the meaning of Section 2(1)(d)(ii) of the Act as held by the State Commission. Orders, if any, passed by the District Fora in other complaints ordering allotment of plot(s) under the scheme being legally erroneous are of no help to the petitioners. There is no illegality or jurisdictional error in the aforesaid order passed by the State Commission warranting interference in revisional jurisdiction under Section 21(b) of the Act. Accordingly, revision petitions are dismissed. No order as to cost."

7. THE petitioner's tilt at windmills, does not produce the desired result. The revision petition, on merits, deserves no consideration. In addition, there is 90 days delay in filing this revision petition. It is stated that the complainant/petitioner is 80 years old and that is why the delay was caused. To our mind, this is a lame excuse which tips the scale in favour of opposite party/respondent. The revision petition is, therefore, dismissed.