

(2013) 11 NCDRC CK 0021

In the National Consumer Disputes Redressal Commission

SARABJIT SINGH

APPELLANT

Vs

Punjab Urban Development And Planning Authority Through
Its Estate Officer

RESPONDENT

Date of Decision : 28-11-2013

Acts Referred:

Citation : 2013 0 NCDRC 801 : 2013 4 CPJ 559

Hon'ble Judges : K.S.CHAUDHARI , B.C.Gupta J.

Final Decision : Revision Petition is dismissed

Judgement

1. THIS revision petition has been filed under section 21(b) of the Consumer Protection Act, 1986 against the impugned order dated 22.05.2013 passed by the Punjab State Consumer Disputes Redressal Commission (for short "the State Commission ") in FA No. 228/2010 vide which the order dated 30.10.2009 passed by District Consumer Disputes Redressal Forum, Kapurthala, allowing the consumer complaint in question, was set aside and the said consumer complaint was dismissed.

2. BRIEF facts of the case are that the petitioner/complainant is the owner of plot bearing no. 1261, measuring 400 sq. yards, situated in Atma Singh Urban Estate, Kapurthala, Punjab. The said plot was earlier owned by Gurdarshan Kaur, from whom, the petitioner purchased the plot and got a re-allotment letter issued by the respondent after making payment of re-allotment fee of Rs. 31,000/-. He made payments of further instalments to the respondent as per their demand, under protest. Thereafter, he got the building plan sanctioned from the respondent and started construction over the said plot. He submitted application dated 16.05.2008 to the respondent, asking them to issue completion certificate upto the plinth level (DPC). He submitted another application dated 11.08.2008 requesting for completion certificate upto the roof level and then another application dated 20.09.2008, asking for completion certificate upto the roof level of first floor. It has been stated in the complaint that the respondent issued certificate upto the plinth level (DPC) in December, 2008, but he failed to

issue the other completion certificates as requested, rather the respondent refused to issue partial completion certificates. He, then, filed the consumer complaint in question, seeking directions to the respondent to issue partial completion certificates and also seeking to refund certain amounts of Rs. 21,000/- and Rs. 39,350/-, charged by the respondent, which according to him were excessively charged. The District Forum vide their order dated 30.10.2009 directed the Opposite Party/Respondent to issue partial completion certificate and also to pay compensation of Rs. 5,000/- for mental harassment and Rs. 3,000/- as costs of litigation. The District Forum declined to grant relief for the amounts alleged to have been charged excessively. An appeal against the order of the District Forum was accepted by the State Commission on 22.05.2013, and order of the District Forum was set aside and the consumer complaint was dismissed. It is against this order that the present petition has been made. At the time of hearing before us, learned counsel for the petitioner has drawn our attention to rule 10 of the Punjab Urban Planning and Development Authority (Building) Rules 1996, pleading that the partial completion certificate should have been issued by the respondent in accordance with this rule. The Revision Petition should, therefore, be allowed and the order of the State Commission be set aside.

3. A careful examination of the facts on record and orders passed by the State Commission and the District Forum reveals that the petitioner/complainant has been requesting for completion certificates from the respondent at various stages of construction i.e. upto the plinth level (DPC level), roof level etc. It is a matter of common knowledge that completion certificate or occupation certificate can be issued by the competent authority only after the construction work is completed and the building in question is fit for habitation. There is no such practice that completion certificates are issued at various stages of construction for a building unit. Rule 10 of the Punjab Urban Planning and Development Authority (Building) Rules 1996 is reproduced as below:- ""10. OCCUPATION CERTIFICATE. - [Section 180(2)(i)] - (1) Every applicant on completion of the building works according to the building plan shall give notice of completion in Form "B" and furnish the completion certificate in Form "C" through his architect to the Competent Authority for issuing the occupation certificate. (2) The Competent Authority shall, within thirty days from the date of receipt of the application shall either issue the occupation certification or reject the application giving reasons for such rejection in Form "D": Provided that the applicant shall remove or destroy and temporary building which might have been erected and the debris from the site and adjoining roads or vacant site before the occupation certificate is issued: Provided further that partial occupation certificate may be granted for partially constructed building with one habitable room, one water closet and one bath room.""

4. A plain reading of the second proviso to the above rule says that a partial occupation certificate may be granted for partially constructed building with one habitable room, one water closet and one bath room. It is very clear from this

rule that partial occupation certificate can not be given unless there is one habitable room. In the light of these facts, it is very clear that the petitioner is not entitled to get the partial completion certificates at various stages of construction. In view of the discussion above, it is held that the order passed by the State Commission is based on correct appreciation of the facts and circumstances on record and there is no illegality, irregularity or jurisdictional error in the same. The impugned order is, therefore, upheld and the present Revision Petition is ordered to be dismissed, with no order as to costs.