

(2004) 04 NCDRC CK 0070

In the National Consumer Disputes Redressal Commission

TAMIL NADU HOUSING BOARD

APPELLANT

Vs

S. RAMESH KUMAR

RESPONDENT

Date of Decision : 05-04-2004

Acts Referred:

Citation : 2005 2 CPJ 330

Hon'ble Judges : A.Raman , R.Vanaroja J.

Final Decision : Appeal partly allowed

Judgement

1. AGGRIEVED by the order passed by the lower Forum, the Tamil Nadu Housing Board, Tirunelveli Unit has preferred this appeal.

2. THE complaint was filed by the complainant who is working as an engineer in Tamil Nadu Electricity Board for a direction to the opposite party to execute the sale deed without delay and pay damages towards mental agony @ Rs. 1,00,000/- and further damages of Rs. 50,000/-. The complainant's case in brief is that he applied for the allotment of a house from the opposite party. He has paid the full amount. But the opposite party is delaying the execution of the sale deed. The opposite party made a demand upon the complainant for payment of Rs. 5,355/- stating that only thereafter the request of the complainant for execution of the sale deed will be considered and that the complainant accordingly sent the amount as claimed. But, yet the sale deed has not been executed and that the complainant was again asked to pay a sum of Rs. 24,200/- and the claim is highly illegal and that there is deficiency in service and hence on this ground, the complaint was laid.

The opposite party filed a version raising several contentions.

3. THE lower Forum accepted the complaint and directed the opposite party to execute the sale deed and pay a cost of Rs. 1,000/- to the complainant. The Government has issued a G.O. in G.O.Ms. No. 466 dated 25.4.1995 issuing certain clarifications. The order reads as follows: "In the G.O. second cited, the Govt. have issued orders to collect the interest from the Govt. Servant allottees

at the prevailing rate on 1/3rd or 1/4th cost of flat/house and interest on the monthly instalment alone from the date of ready for occupation till the date of sanction of house building advance. Based on the above G.O., the housing Board has issued orders to the Executive Engineer and Adm. Officer of the Divisions/ Units that the concession on interest charges given by the Govt. in the above Government order is applicable to the State Govt. servants only and it is not applicable to other employees of the Central Govt., Electricity Board, quasi and local bodies etc. The Managing Director, TNHB in his letter third read above, has stated that inspite of the above instructions issued by the Board, many Central Government employee allottees have approached the Board for extending such concession granted in the G.O. to them also. The Board has, therefore, requested the Govt. to issue specific orders to the effect that the G.O.Ms. No. 174, Hg dated 7.2.1991 is applicable to Tamil Nadu State Govt. allottees only and that it is not applicable to the Central Govt. employees and others, in order to avoid further litigation in such type of disputes in future. The Govt. after careful consideration direct that the orders issued in the G.O.Ms. No. 174, Hg. and U.D.D. dated 7.2.1991, shall be applicable only to the allottees who are the Tamil Nadu State Govt. servants and it is not applicable to either Central Govt. employees or the Board, Corporation or local body employees."

4. THE complainant is admittedly an employee in the Tamil Nadu Electricity Board. THEREfore, he is not entitled to the benefits to which State Government employee is entitled to. According to the opposite party, a demand for Rs. 5,355/- was made wrongly treating the complainant as a State Govt. servant and since he does not fall under the category, interest has to be calculated on the full cost of the house @ 14% with penal interest @ 18% and thus if calculated the amount still due comes to Rs. 24,177/- and, therefore, the complainant was asked to pay the same before requesting for execution of the sale deed. THE learned Counsel for the appellant submitted that if the amount of Rs. 24,177/- is deposited by the complainant, they are prepared to execute the sale deed. In the light of the above G.O. and the submissions made by the learned Counsel for the appellant, we are of the view that the order passed by the lower Forum directing the execution of the sale deed deserves to be modified. Accordingly we modify the order passed by the lower Forum in the following terms: The opposite party is directed to execute the sale deed on the complainant depositing Rs. 24,177/- within two months of this order. In the circumstances, the parties shall bear their own cost here and before the lower Forum. The order passed by the lower Forum directing the opposite party to pay a sum of Rs. 1,000/- as cost will also stand set aside. Appeal partly allowed.