

J. Bhardwaj Vs. Punjab Urban Planning and Development Authority and Others

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Court : National Consumer Disputes Redressal Commission NCDRC

Decided On : Jul-12-2012

Judge : R.C. Jain, Presiding Member & the Honourable Mr. S.K. Naik, Member

Appeal No. : Revision Petition No. 382 of 2012 in Appeal No. 1001 of 2006

Appellant : J. Bhardwaj

Respondent : Punjab Urban Planning and Development Authority and Others

Advocate for Pet/Ap. : Mr. Saurav Khurana

Judgement :

R.C. Jain, Presiding Member:

1. Challenge in these proceedings is to the concurrent findings and orders passed by the District Consumer Disputes Redressal Forum, Amritsar to begin with and thereafter by the Punjab State Consumer Disputes Redressal Commission, Chandigarh (for short the State Commission) in Appeal No. 1001 of 2006. Both the fora below have ruled out that the petitioner-complainant could not approach a consumer fora for redressal of his grievance in relation of plot of land bearing No. 117, situated at Green Avenue Locality of Amritsar, which he purchased in an open auction held on 25.8.2000, he having paid a sum of Rs. 3,87,956/-,

representing the 25% of the price of the plot. However, subsequently, complainant-petitioner found certain defects / deficiencies inasmuch as according to him the plot was not found to be located in the Green Avenue Locality and rather it was in the area of U.B.D.C. distributors and the colony known as Janta Colony and Tanga Colony being not having the requisite amenities like water and sewerage system. Both the fora have non-suited the complainant-petitioner primarily on the ground that he is not a consumer and is not entitled to invoke the jurisdiction of a consumer fora in view of the decision of the Apex Court in the case of UT Chandigarh Administration and Anotherv. Amarjeet Singh and Others, II (2009) CPJ 1 (SC)=II (2009) SLT 736=2009 (3) CPR 97 (SC).

2. We have heard Mr. Saurav Khurana, learned counsel for the petitioner at length. He would assail the orders of the fora below primarily on the strength of the decision of the Honble Supreme Court in the case of Madan Kumar Singh (D) through L.R.v. District Magistrate, Sultanpru and Ors., IV (2009) CPJ 3 (SC)=VI (2009) SLT 269=2009 (4) RCR (Civ.) 137, as also a decision of this Commission rendered in the case of Rajesh Popli and Anr.v. Haryana Urban Development Authority and Anr., R.P. No. 4081 of 2010, which are on the facts and appreciation of the said cases that a view has been taken.

3. Learned counsel would assail the impugned orders primarily passed by the fora below on the ground that the fora below have erred in relying and acting upon the decision of the Honble Supreme Court in fact in the case of UT Chandigarh Administration and Anotherv. Amarjeet Singh and Others, II (2009) CPJ 1 (SC)=II (2009) SLT 736=2009 (3) CPR 97 (SC) inasmuch as the facts of the case in hand are distinguishable as the complainant has alleged not only the deficiency in service on the part of the respondent-PUDA but has also alleged unfair trade practice inasmuch as the plot in question is in fact located in a different locality than notified in the brochure and advertisements issued by the PUDA. We have noted these submissions only to be rejected because the Honble Supreme Court in the above-referred judgment in para 14 has categorically held as under:

œWhere there is a public auction without assuring any specific or particular amenities, and the prospective purchaser/lessee participates in the auction after

having an opportunity of examining the site, the bid in the auction is made keeping in view the existing situation, position and condition of the site. If all amenities are available, he would offer a higher amount. If there are no amenities, or if the site suffers from any disadvantages, he would offer a lesser amount, or may not participate in the auction. Once with open eyes, a person participates in an auction, he cannot thereafter be heard to say that he would not pay the balance of the price/premium or the stipulated interest on the delayed payment, or the ground rent, on the ground that the site suffers from certain disadvantages or on the ground that amenities are not provided. With reference to a public auction of existing sites (as contrasted from sites to be formed), the purchaser/lessee is not a consumer the owner is not a trader or service provider and the grievance does not relate to any matter in regard, which a complaint can be filed. Therefore, any grievance by the purchaser/lessee will not give rise to a complaint or consumer dispute and the fora under the Act will not have jurisdiction to entertain or decide any complaint by the auction purchaser/lessee against the owner holding the auction of sites.?

4. In view of the admitted position that the plot in question was purchased by the petitioner-complainant in an open auction held on 25.8.2000, we have no doubt that the said decision squarely covers the facts and circumstances of the case in hand and no distinction can be made out. We do not wish to comment further on the merits of the allegations made in the complaint lest it prejudice the cause of the petitioner if he approaches the other court or Forum for redressal of his grievance. In our view the fora below were fully justified in taking the view they have taken and non-suited the complainant so far as the consumer fora are concerned and relegating the petitioner to seek his remedy before the appropriate Court/Forum in accordance with law.

5. We do not see any illegality, material irregularity much less any jurisdiction error in the impugned order passed by the State Commission, which warrants interference by this Commission.

Dismissed.

Revision Petition dismissed.

