

Indore Development Authority

v.

Dr. Hemant Mandovra

(Civil Appeal No. 13940 of 2024)

13 December 2024

[Bela M. Trivedi and Satish Chandra Sharma,* JJ.]

Issue for Consideration

An allotment of land to the Respondent was canceled by the Appellant for not paying the full amount as per the scheme. In a writ petition filed by the Respondent, High Court directed the respondent to pay the balance outstanding amount within 30 days and directed the appellant to handover the possession of the plot to the respondent. Respondent did not deposit the full amount and instead preferred a complaint against the Appellant in the District Forum, which dismissed Respondent's complaint. In the appeal filed by the Respondent before the State Commission, respondent filed an application under Section 13(3B) of the Consumer Protection Act, 1986 for grant of permission to deposit the amount under protest with the liberty to reclaim the said amount. On such application, State Commission passed an interim order directing the appellant to accept the outstanding amount with interest and to deliver the possession of plot. In the revision petition, the National Commission directed the appellant to calculate the interest within a period of two weeks and after receiving the amount along with interest, to handover the possession of the plot within a period of three weeks from the date of receipt of such deposit. Whether such an order could have been passed by the National Commission and whether final relief could not have been granted by the State Commission on an interlocutory application.

Headnotes[†]

Consumer Protection – Grant of final relief by State Commission on an Interlocutory Application – If Proper.

Held: The District Forum was justified in dismissing the complaint of the respondent – The State Commission by directing the appellant to accept the outstanding amount with interest and to deliver the

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possession of plot in question to the respondent, granted a final relief by way of an interim order – Final relief could not have been granted by the State Commission on an interlocutory application filed in the matter – The National Commission without considering any ground raised by the appellant directed the appellant to receive and accept the amount from the respondent along with interest and handover the possession of the plot in question – It was the respondent who committed default in depositing the balance amount as per the terms and conditions of the NIT and even after the first round of litigation before the High Court, the respondent did not deposit the amount which was outstanding against him, even though appellant reduced the amount of interest to be paid and, therefore, at this juncture, after a lapse of 28 years, the question of directing the appellant as has been done by the National Commission to accept the amount does not arise – Resultantly, the orders passed by the State Commission and National Commission deserve to be set aside and are accordingly set aside. [Paras 10 and 11]

List of Acts

Constitution of India; Consumer Protection Act, 1986; Town and Country Planning Act, 1973.

List of Keywords

Tender; Allotment of land; Cancellation of allotment; Terms and conditions of the NIT; Premium amount; Interlocutory application; Interim order; Final relief; National Consumer Disputes Redressal Commission; State Commission; Revision petition; Lapse of time.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 13940 of 2024

From the Judgment and Order dated 29-03-2023 of the National Consumer Disputes Redressal Commission, New Delhi in RP No. 2808 of 2018

Appearances for Parties

Amit Pawan, Adv. for the Appellant.

Udayaditya Banerjee, Adv. for the Respondent.

Supreme Court Reports**Judgment / Order of the Supreme Court****Judgment****Satish Chandra Sharma, J.**

1. Leave granted.
2. This present petition is arising out of order dated 29.03.2023 passed by National Consumer Disputes Redressal Commission (for short, "the National Commission") in Revision Petition No. 2808 of 2018 whereby the National Commission directed the appellant to handover possession of the plot in question to the respondent within three weeks from the date the amount is paid along with interest to the Indore Development Authority.
3. The undisputed facts of the case reveal that the appellant i.e. Indore Development Authority which is an authority constituted under the Town and Country Planning Act, 1973, issued an advertisement/ Notice Inviting Tender (NIT) on 05.10.1994 in respect of Scheme No. 54 offering various plots to the public at large. The respondent pursuant to the said advertisement/tender notice dated 05.10.1994 submitted his offer and was allotted a Plot No. 314 on 02.01.1995 in Scheme No. 54 with a payment plan to deposit 50% premium amount and lease rent within 30 days from the date of allotment and the rest 50% was required to be deposited in 12 quarterly instalments. The undisputed facts further reveal that the respondent deposited the initial amount and did not deposit the balance instalments on time and, therefore, as per the terms and conditions of the allotment and rules of the authority, the allotment was cancelled on 22.03.2000.
4. The respondent being aggrieved by the cancellation of allotment preferred a Writ Petition No. 174 of 2001 before the Indore Bench of the Madhya Pradesh High Court and the Indore Bench of that High Court vide order dated 01.08.2006 passed in Writ Petition No. 174 of 2001 allowed the writ petition thereby directing the Indore Development Authority i.e. the appellant herein to deliver the possession of the plot to the writ petitioner i.e. respondent herein subject to payment of the remaining outstanding amount within 30 days from the date of the order, meaning thereby, the allotment of the respondent was restored and 30 days' time was granted to him to pay the outstanding dues.

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5. The respondent pursuant to the order passed by the High Court submitted a Demand Draft amounting to Rs 5,72,782/-, though the total outstanding amount was Rs. 12,02,592/-. The Demand Draft was returned to the respondent as it was not in respect of the total outstanding amount. According to the respondent, in response to his letter dated 18.06.2008 whereby he requested the appellant to reduce the interest and therefore, based upon his request, the amount was reduced to Rs. 11,04,948/- by the appellant, which was required to be deposited on or before 28.02.2009. The respondent, even though the amount was reduced, failed to deposit the amount of Rs. 11,04,948/- and took a different route for redressal of his grievance by approaching District Consumer Disputes Redressal Forum, Indore, (hereinafter referred to as, "District Forum") by filing a consumer complaint No. 391/2009 under Section 12 of the Consumer Protection Act, 1986, challenging the demand dated 17.02.2009 and for issuance of an appropriate direction for execution of sale deed in his favour and the District Forum vide order dated 25.02.2015 dismissed the complaint on the ground that the amount was not deposited as directed by the High Court.
6. The respondent being aggrieved by the order passed by the District Forum preferred another writ petition No. 1661/2015 before the Indore Bench of the Madhya Pradesh High Court and the said writ petition was dismissed as withdrawn on 08.04.2015 with the liberty to avail the statutory remedy provided under the Consumer Protection Act. Thereafter, the respondent preferred an appeal before the Madhya Pradesh State Consumer Disputes Redressal Commission, Bhopal (hereinafter referred to as, "State Commission"). The State Commission admitted the appeal and during the pendency of the appeal, the respondent filed an application under Section 13(3B) of the Consumer Protection Act, for grant of permission to deposit the amount of Rs. 11,04,948/- under protest with the liberty to reclaim the said amount. The Indore Development Authority i.e. the appellant herein filed its reply stating on affidavit that the total amount of Rs. 22,73,079/- is outstanding which included the interest. The State Commission passed an interim order on 15.12.2017. Though, it was an interim order but granted final relief to the respondent by directing him to deposit the entire outstanding amount with interest and the appellant i.e. Indore Development Authority was directed to place the respondent in possession.

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7. Being aggrieved by the order dated 15.12.2017 passed by the State Commission, a revision petition was preferred before the National Commission and the National Commission had disposed of the revision petition directing the appellant to calculate the interest within a period of two weeks and after receiving the amount along with interest, to handover the possession of the plot within a period of three weeks from the date of receipt of such deposit.
8. We have heard the learned counsel for the parties at length and perused the records minutely.
9. It is an undisputed fact that in respect of advertisement/NIT which was issued on 05.10.1994, National Commission vide order dated 29.03.2023 has directed the appellant to accept the deposit made by respondent and to allot the plot to him, meaning thereby, after the lapse of period of 28 years. In the present case, the respondent at the first instance opted to file a writ petition before the High Court of Madhya Pradesh and a favourable order was also passed in his favour on 01.08.2006 directing the respondent to pay the balance outstanding amount within 30 days and further directed the appellant i.e. Indore Development Authority to handover the possession of the plot to the writ petitioner i.e. respondent herein. However, only a sum of Rs. 5,72,782/- through a demand draft was presented in the month of September, 2006, against the total outstanding dues of Rs. 12,02,592/-.
10. The appellant i.e. Indore Development Authority has shown magnanimity in the matter by reducing the interest vide letter dated 17.02.2009 and the amount was reduced to Rs. 11,04,948/- which was required to be paid on or before 28.02.2009. The respondent, not being satisfied even with the reduction of amount, opted for a different route for redressal of his grievance by approaching the District Forum and the District Forum was justified in dismissing the complaint of the respondent. The respondent again approached the High Court by way of a writ petition which was dismissed as withdrawn on 08.04.2015 with the liberty to avail statutory remedy provided under the Consumer Protection Act and thereafter the respondent preferred an appeal before the State Commission against the order passed by the District Forum. The State Commission by way of an interim order dated 15.12.2017 directed the appellant i.e. Indore Development Authority to accept the outstanding amount with interest

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and to deliver the possession of plot in question to the respondent, meaning thereby, a final relief was granted by way of an interim order and under these circumstances, the matter had reached the National Commission. In the considered opinion of this Court, final relief could not have been granted by the State Commission on an interlocutory application filed in the matter.

11. The other important aspect of the case is that the National Commission without considering any ground raised by the appellant has directed the appellant to receive and accept the amount from the respondent along with interest and handover the possession of the plot in question. In our considered opinion, in respect of NIT/advertisement issued on 05.10.1994, no such order could have been passed by the National Commission in the peculiar facts and circumstances of the present case i.e. after a lapse of period of 28 years. It was the respondent who committed default in depositing the balance amount as per the terms and conditions of the NIT and even after the first round of litigation before the High Court, the respondent did not deposit the amount of Rs. 12,02,592/- which was outstanding against him and, therefore, at this juncture, after a lapse of 28 years, the question of directing the appellant i.e. Indore Development Authority as has been done by the National Commission to accept the amount does not arise. Resultantly, the orders passed by the State Commission dt. 15.12.2017 and National Commission dt. 29.03.2023 deserve to be set aside and are accordingly set aside and it is made clear that the appellant i.e. Indore Development Authority shall issue a fresh tender in respect of the said plot in question and shall allot the plot only by way of auction or by following the due process as per rules.
12. With the aforesaid, the appeal stands allowed.

Result of the case: Appeal allowed.

[†]Headnotes prepared by: Adeeba Mujahid, Hon. Associate Editor
(Verified by: Liz Mathew, Sr. Adv.)