

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3270 OF 2015
(@ SPECIAL LEAVE PETITION (CIVIL) NO. 16556 OF 2013)

D.D.A. . . . APPELLANT (S)
VERSUS
RAJESH TIWARI RESPONDENT(S)

O R D E R

1. Heard learned counsels for the parties.
2. Leave granted.
3. The challenge herein is against the order dated 14.02.2013 of the National Consumer Disputes Redressal Commission (referred to as National Commission). While upholding the findings of the State Commission with regard to deficiency of service, the National Commission had modified the ultimate award to one of the monetary compensation of Rs. 5,00,000/- (Rupees five lakhs).

Signature Not Verified
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Madhu Bala
Date: 2015.04.20
16:49:40 IST
Reason:

4. The respondent was an applicant for allotment of a flat to be made by the D.D.A.

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In the application form he had shown his address as Site-II, Flat No. 21, Vikas Puri, New Delhi - 110 018. In the affidavit supporting the application, while mentioning the said address as his residential address, the respondent had further stated that presently he is residing at Site-II, Flat

No.155, Vikas Puri, New Delhi- 110018. The respondent was successful in the allotment made by the D.D.A and the allotment letter was sent to the respondent at Site-II Flat No.21, Vikas Puri, New Delhi. According to the respondent, he did not receive the said allotment order and therefore could not avail of the benefit. Raising the grievance that the communication was not sent to him at the second address mentioned i.e. Flat No. 155, Block-C, Vikas Puri, New Delhi, where he was residing the respondent had approached the District Forum. Initially the District Forum rejected the claim leading to a proceeding before the State Forum. The State Forum held in favour of the respondent and directed that the respondent be allotted a flat or paid the market value thereof on the date of the order i.e. Rs.22,50,000/-. Aggrieved, the DDA moved the National Forum by way of a revision petition wherein impugned order has been passed.

5. We have heard the learned counsels for the parties. We have also gone through the materials on record. The short issue that has crystallized before the Court is whether apart from the address mentioned in the application form and the affidavit filed in support thereof, the respondent had, at any point of time, intimated the D.D.A of any change of address at which he desired the communication to be sent. As the pleadings in this regard were not satisfactory, we had permitted an additional affidavit to

be filed by the concerned authority of the D.D.A. Accordingly, the Commissioner, Housing, D.D.A has filed an additional affidavit on 11th April, 2015 wherein it has been stated that no such communication had been sent by the respondent or received by the D.D.A with regard to the change of address and that apart from the address mentioned in the application form and the affidavit in support thereof, no other address was communicated to the D.D.A.

6. We have perused the affidavit filed by the respondent in support of the application and have taken note of contents thereof which are to the following effect:

I, Rajesh Tiwari, S/o Shri Sampat Ram Tiwari, resident of Site-II, Flat No. 21, Vikas Puri, New Delhi - 110 018 and presently at Site II, Flat No. 155, Vikas Puri, New Delhi - 110 018, do hereby solemnly affirm and declare as under:

1. That I am a resident of Delhi.
2. That I have continuously resided in Delhi for the five years.

7. From a reading of the contents of the affidavit extracted above, in our considered view, it is possible to come to the conclusion that the address of the respondent was Site-II, Flat No. 21, Vikas Puri, New Delhi - 110 018 and he was also residing in Flat No. 155, Vikas Puri, New Delhi. There is some ambiguity as to the address in which the respondent was residing

on the date the allotment letter was issued.

If the respondent wants to hold the D.D.A responsible for not sending the allotment letter at the proper address he should have been more specific in his intimation to the D.D.A in this regard.

8. If the above conclusion can be reached on a reading of the affidavit filed by the respondent, we do not see how the D.D.A can be faulted in sending the allotment letter to the respondent at the address i.e. Site -II, Flat No. 21, Vikas Puri, New Delhi. In the above circumstances, we interfere with the order of the National Consumer Disputes Redressal Commission, New Delhi, and set aside the same. Consequently, the appeal is allowed as indicated above.

.....J.
[RANJAN GOGOI]

NEW DELHI
17TH APRIL, 2015

.....J.
[N.V. RAMANA]

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ITEM NO.202

COURT NO.8

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 16556/2013
(Arising out of impugned final judgment and order dated 14/02/2013
in RP No. 4466/2012 passed by the National Consumers Disputes
Redressal Commission, New Delhi)

D.D.A.

Petitioner(s)

VERSUS

RAJESH TIWARI
(With interim relief and office report)
(For final disposal)

Respondent(s)

WITH
SLP(C) No. 29435/2013
(With Office Report)

Date : 17/04/2015 These petitions were called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE RANJAN GOGOI

For Petitioner(s) Mr. A. Sharan, Sr. Adv.
In SC 16556/13 Mr. Vishnu B. Saharya, Adv.
& Respt. in Mr. Viresh B. Saharya, Adv.
SC 29435/13 M/s Saharya & Co., Adv.

For Respondent(s) Ms. Rajani Kanta Patra, Adv.
In SC 16556/13 & Mr. Debasis Mishra, Adv.
Petitioner In SC 29435/13

UPON hearing the counsel the Court made the following
O R D E R
SLP(C)No. 16556 of 2013

Heard learned counsels for the parties.
Leave granted.
The appeal is allowed in terms of the signed order.

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SLP(C)No. 29435/2013

Heard learned counsel for the parties and perused
the relevant material.

We do not find any legal and valid ground for
interference. The special leave petition is dismissed.

(MADHU BALA)
COURT MASTER

(ASHA SONI)
COURT MASTER

(Signed order is placed on the file)