

ITEM NO.37

COURT NO.8

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).18631/2009

(From the judgement and order dated 14/11/2008 in MA No.299/2008 in FA No.188/1999 of The NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION, NEW DELHI)

ESTATE OFFICER, CHANDIGARH & ANR.

Petitioner(s)

VERSUS

BIRINDER SINGH & ORS.

Respondent(s)

(With appln(s) for c/delay in filing SLP and office report)

Date: 16/09/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ANIL R. DAVE

For Petitioner(s) Mr. Manish Kumar, Adv.
 Mr. Gopal Singh, A.O.R.
 Ms. Vimla Sinha, Adv.

For Respondent(s) Mr. Rajesh Sood, Adv.
 Mr. Senthil Jagadeesan, A.O.R.

UPON hearing counsel the Court made the following
O R D E R

Delay condoned.

This petition is directed against order dated 14.11.2008 passed by the National Consumer Disputes Redressal Commission (for short, "the National Commission") whereby the application filed by the petitioner for restoration of the appeal was dismissed

2

as barred by time.

On the basis of highest bid given by them, the respondents were allotted residential site in Sector 33-A, Chandigarh for a premium of Rs.23,50,000/- subject to the terms and conditions embodied in allotment letter dated 26.2.1997. After five months, the respondents filed complaint under Section 15 of the Consumer Protection Act, 1986 alleging deficiency of service on

the petitioners' part. It was the case of the respondents that the Chandigarh Administration had not provided basic amenities like approach road, drinking water lines, sewerage, street lights etc. and on that account, they were not in a position to raise construction.

By an order dated 9.2.1999, the Consumer Disputes Redressal Commission, Union Territory Chandigarh allowed the complaint and held that the complainants are entitled to interest at the rate of 18% per annum on the amount deposited by them till the certificate is issued by the Chief Engineer, Union Territory, Chandigarh or an officer next below him that the site allotted to the complainants is fit for construction.

The petitioners were also directed to pay compensation of Rs.15,000/-.

The appeal preferred by the petitioners was

3

dismissed by the National Commission for non-prosecution. After more than two years and six months,

the petitioners filed miscellaneous application for restoration of the appeal. They also filed an application for condonation of delay by stating that

Shri N.K. Verma, who was entrusted with the brief had died and on that account, no one could appear before the National Commission on 01.5.2006.

The National Commission refused to condone the delay and dismissed the restoration application by

recording the following observations:

"It has been stated for condonation of delay in filing the miscellaneous application, that the counsel for the appellant had died, but the date on which the counsel died, has not been mentioned. Other particulars are also missing. We are not satisfied with the grounds taken for the condonation of delay and are not inclined to restore the appeal. Accordingly, the miscellaneous application filed for review is dismissed."

We have heard learned counsel for the parties and

carefully perused the record.

In our view, the cause

shown by the petitioners for delayed filing of the application for restoration was not at all satisfactory and the National Commission rightly refused to entertain the same.

The special leave petition is accordingly dismissed.

4

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master