

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2013  
(Diary No.19378 of 2013)

Jeevan Bima Nagar Flat Owners  
Welfare Association, Chennai

..Appellant

versus

Life Insurance Corporation of India  
and others

..Respondents

O R D E R

Delay condoned.

The appellant has challenged order dated 2.1.2013 passed by the National Consumer Disputes Redressal Commission (for short, 'the National Commission') whereby the original petition filed by it was disposed of with certain directions. The appellant has also challenged order dated 11.4.2013 passed in review application No. 196 of 2013.

In the complaint filed by it, the petitioner had alleged that the flats allotted to its members were deficient in more than one ways and despite repeated representations the respondents did not remove the same.

During the pendency of the complaint, five Commissioners were appointed to inspect the flats. The National Commission considered their reports and gave the following directions:

"65. Keeping in view all the facts and circumstances of the case, we hereby order that the President of the Association would give the defects/deficiencies mentioned in respect of each flat in a list to the head/G.M. of LIC who is posted in Madras/Chennai till the end of February, 2013. The General Manager will get the deficiency removed within three months thereafter. He will seek the assistance of Chief Architect or Chief Engineer of Municipal Corporation of Chennai and will pay him the agreed remuneration. The General Manager will file a personal affidavit in this respect with this Commission along with the satisfaction recorded by Chief Architect or Chief Engineer as the case may be. If the LIC fails to do the needful till the end of June, they will pay penalty to the association in the sum of Rs. 25,000 per month till the needful is done. The matter stands disposed of, if there is any problem that will be solved at the time of execution.

ENTRANCE GATES

66. The opposite parties will erect 5 entrance gates in the complex within a period of three months or in the

alternative, they will pay a sum of Rs. 50,000 plus interest @ 9% per annum from the day when the possession was given to the complainant till its realization.

#### OFFICE COMPLEX

67. The opposite party is directed to complete the office complex within three months. During the argument it came to light that milk booth, dispensary and PCO are already working there. The OPs are directed to provide clinic cum pharmacy within three months of receipt of this order otherwise they will pay compensation to the association in the sum of Rs. 10,000 per month till the such facility is provided.

This is made clear that this office complex will remain under the supervision of the LIC. LIC can lease it out and recover the money which should be spent towards over all maintenance of the complex i.e. white wash of boundary wall, repairing of the outer doors, and roads and running the clinic, etc. The money is not to be given to the Association.

#### COMMUNITY HALL

68. During the arguments it transpired that the community hall is ready. We grant three months more time to the opposite party to hand over the community hall which will be used by the association as per their programme and conveniences. No outsider will be allowed to use the community hall. In case, community hall is not handed over to the complainant within three months of receipt of this order, the LIC will have to pay the penalty charges at Rs. 10,000 per month till the same is given to the association. It is made clear that over all incharge of the Community Hall will be of LIC but its possession will be given to the association.

69. Although, there is no specific provision for a private/public school, yet during the arguments it transpired that the LIC is constructing a school. In order to enhance their reputation and for the welfare of the public, school is a necessity. The school and its administration will be run by the LIC.

Para 2 of Bonanza offer of LIC policy holders reads as under:

"2. The flats are within 3 kms. from the Anna Nagar Rountana, adjacent to Radial Houses on Ambattur Industrial Estate Road, opposite to Collector Nagar Bus Stop. The flats are located in 12.5 acres land with well laid out roads and other amenities. Provision being made for locating a Community Centre, Public Telephone with STD facilities, Milk; Booth, Clinic-cum-pharmacy and other similar basic facilities within easy reach, all within the complex."

70. The OPs are liable to pay overall compensation/litigation charges in the sum of Rs. 5 lakh out of which 2 = lakh compensation/litigation charges will go to the complainant and Rs. 2 = lakh to the Consumer Welfare Fund established by the Central Government u/s.12(c) of the Central Excise Act, 1944 within 3 months from today failing which it will carry interest at the rate of 9% p.a. till realisation. The learned Registrar of this Commission to see the compliance of order U/s.25 of the C.P. Act."

We have heard Shri Vijay Kumar, learned counsel for the appellant and perused the record.

Learned counsel for the appellant relied upon Section 6 of the Tamil Nadu Apartment Ownership Act, 1994 (for short, 'the 1994 Act') and argued that the impugned order is liable to be set aside because the respondents did not provide common areas and facilities as per the mandate of that section and the National Commission failed to consider this aspect of the matter.

We have carefully gone through the impugned order. The National Commission has assigned detailed and cogent reasons for not accepting all the prayers made by the appellant. The appellant's plea that the National Commission did not consider the argument based on Section 6 of the 1994 Act merits rejection because no such argument was raised before the National Commission. Even in the review petition, no such plea was taken by the petitioner. Therefore, it is not possible to find any fault with the impugned orders.

The appeals are accordingly dismissed.

.....J.  
[G.S. SINGHVI]

NEW DELHI; .....J.  
AUGUST 19, 2013 [V. GOPALA GOWDA]

ITEM NO.8 COURT NO.2 SECTION XVII

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

CIVIL APPEAL D.NO(s). 19378 OF 2013

JEEVAN BIMA NAGAR FLAT OW. WE. ASS. CHEN Appellant (s)

VERSUS

THE LIFE INSURANCE COR. OF INDIA & ORS Respondent(s)

(With appln(s) for condonation of delay in filing appeal. and office report)

Date: 19/08/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE V. GOPALA GOWDA

For Petitioner(s) Mr. Vijay Kumar, Adv.  
Mr. B.D. Pandey, Adv.  
Mr. Atul Sharma, Adv.  
Mr. Aniruddha P. Mayee, Adv.

Mr. Pankaj Kumar, Adv.

For Respondent(s)

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

Delay condoned.

The appeals are dismissed in terms of the signed order.

| (Parveen Kr.Chawla)  
| Court Master

| | (Phoolan Wati Arora)  
| | Court Master

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[signed order is placed on the file]

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