



deposited 25% of the price but failed to pay the balance amount.

Therefore, by an order dated 1.1.2002, the competent authority cancelled the allotment and resumed the plot.

After four years of resumption of the plot, the petitioner filed complaint under Section 12 of the Consumer Protection Act, 1986 (for short, 'the Act'). She pleaded that the installments of price could not be deposited due to certain domestic reasons and problems. She further pleaded that even though possession letter was issued to her, she could not act upon the same because the site had not been developed inasmuch as the basic facilities like water, electricity, sewerage etc. had not been made available.

In the reply filed on behalf of the respondents, an objection was taken to the maintainability of the complaint on the ground that the same was barred by time. On merits, it was pleaded that the order of cancellation was passed after providing opportunity of hearing to the petitioner.

By an order dated 26.05.2006, the District Consumer Disputes Redressal Forum, Panipat (for short, 'the District Forum') allowed the complaint and directed the respondents to allot an alternative

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plot to the petitioner with liberty to them to charge interest or penalty as per rules and extra cost, if the area of the new plot was more than the area of the plot originally allotted. The District Forum discarded the plea of the respondents that order of resumption was passed after giving opportunity of hearing to the petitioner by making the following observations:

"So much so, the respondents have failed to file the copy of resumption order and notice which are required to be issued to the petitioner prior to the resumption of the plot in question. The respondents either have not followed the procedure laid down for resumption of a residential plot or they have knowingly withheld the documents showing the procedure adopted for the resumption of the plot. In the absence of any date of hearing given to the petitioner which is not mentioned, in the reply, together with even absence of the number of the resumption order, what to talk of copy thereof, we are of the considered view that the respondents have miserably failed to prove on the file that they have committed gross negligence in their services and they have not adopted the procedure, laid down for the resumption of a plot."

On the issue of limitation, the District Forum observed that the respondents have failed to mention the dates of alleged hearing given to the petitioner, whereas her case is that she had time and again approached the respondents to deposit the amount of the plot but the concerned authority did not accept the payment.

The appeal filed by the respondents was disposed of by the State Commission by taking cognizance of the statement of counsel appearing for the respondents herein that the case is covered by the judgment of the High Court in Sandhya Jindal vs. State of Haryana, (1996) 3 P.L.R. 614 and the statement of the learned counsel for the petitioner that he had no objection if the appeal

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is disposed of in terms of the order passed by the High Court in Sandhya Jindal v. State of Haryana.

The National Commission allowed the revision filed by the respondents and dismissed the complaint on the ground that the same was barred by time.

Mr. Birender Chahar, learned senior counsel appearing for the petitioner argued that the respondents did not have the locus to challenge the order of the State Commission by filing revision

because the appellate order was passed on the basis of the

statement made by their counsel that the petitioner's case is

covered by the judgment of the High Court in Sandhya Jindal vs.

State of Haryana (supra). Learned counsel emphasized that by

virtually conceding the petitioner's claim, the respondents had

deprived her of an opportunity to convince the State Commission

that the direction given by the District Forum was legally correct

and justified. Learned counsel submitted that the National

Commission committed serious error by reversing the order passed by

the State Commission and non suiting the petitioner on the ground

of limitation and also on the ground that she had not made a

grievance about lack of amenities at the site ignoring that she was

always ready and willing to deposit the balance price with interest

and possession of the site could not be taken on account of the respondents' failure to provide basic amenities like water, electricity, road etc.

We have considered the submissions of the learned senior counsel. In our view, the special leave petitions are liable to be

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dismissed for more than one reasons which are enumerated below :-

1. The petitioner has not approached this Court with clean hands inasmuch as she has deliberately omitted to place on record the allotment letter, the order of resumption and copies of the complaint and the written statement filed before the District Forum. These documents are extremely relevant for deciding the issues raised in the special leave petition. By withholding these important documents, the petitioner has prevented this Court from examining her plea in a correct perspective.

2. The petitioner did not challenge the order of resumption by filing an appeal and revision and in the absence of such challenge, the District Forum was not at all justified in entertaining the complaint and issuing a direction for allotment of alternative plot to the petitioner.

3. Admittedly, the petitioner had failed to pay the balance price in accordance with the terms and conditions embodied in the allotment letter. Therefore, the competent authority did not commit any illegality by ordering resumption of the plot. The observations made by the District Forum suggesting that the respondents had acted arbitrarily and in violation of the rules of natural justice were totally uncalled for. It was not the pleaded case of the petitioner that the order of resumption passed on 1.1.2002 had not been communicated to her. Therefore, it was for her to produce the order of resumption and show that the same was passed without issuing

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notice and giving her an opportunity of hearing. The respondents could not have been condemned by the District Forum for not placing on record copy of the order of

resumption and not producing evidence to show that the same was passed after issuing notice to the petitioner.

4. The complaint filed by the petitioner in February, 2006 was barred by limitation and the District Forum was not justified in entertaining the same because the petitioner had not applied for condonation of delay by filing an application under Section 24A(2) of the Act or making a request to that effect. The tenor of the order passed by the District Forum suggests that as per the petitioner, she came to know about the order of resumption on 16.12.2005 only but this was controverted by the respondents who categorically averred that the plot was resumed vide order dated 1.1.2002 after providing opportunity of hearing to the petitioner. There is nothing on record to show that the petitioner had filed rejoinder affidavit to controvert this assertion. Therefore, the bald statement made by the petitioner about the date of knowledge of the resumption order could not be made basis for indirectly condoning the delay in filing of the complaint.

5. The argument of Shri Chahar that the respondents did not have the locus to challenge the order of the State Commission, which was passed by relying upon the statement made by their counsel that the petitioner's case is covered by the order of High Court in Sandhya Jindal v. State of Haryana (supra)

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sounds attractive but cannot be accepted because no such argument was raised before the National Commission. For the reasons best known to her, the petitioner has not filed copy of the Review Petition No.33/2010 to show that such a plea was raised and argued before the National Commission but the same was not considered.

For the reasons mentioned above, the special leave petitions are dismissed.

( Satish K.Yadav )  
Court Master

( Phoolan Wati Arora )  
Court Master