

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.2617-2618 OF 2011  
(Arising out of C.A.D.No.6405 of 2011)

IRLA COOP HNG.SOCIETY LTD.

.....APPELLANT

VERSUS

M/S PRIME DEVELOPERS & ORS.

.....RESPONDENTS

O R D E R

These appeals have been filed for setting aside orders dated 7.5.2010 and 4.10.2010 passed by the National Consumer Disputes Redressal Commission (for short, "the National Commission") whereby the consumer complaint and the review application filed by the appellant were dismissed. The appellant has also filed an application for condonation of 256 days delay qua order dated 7.5.2010 and 113 days delay qua order dated 4.10.2010.

The appellant had entered into a development agreement with respondent No.1 for demolition of the building occupied by its members and construction of a shopping mall. The agreement was subsequently ratified by deed dated 1.9.2003. After about 7 years, the appellant filed Consumer Complaint No.64 of 2010 and made several prayers including the one that a direction be issued to the respondents to pay the electricity charges and municipal taxes for the period upto December, 2009. The appellant

2

also prayed that the respondents be restrained from selling the shops or creating third party rights in the mall.

When the complaint was listed for admission hearing, learned counsel for the appellant made a statement that the same may be dismissed as withdrawn with liberty to his client to approach the Civil Court. The National Commission accepted his request and dismissed the complaint with liberty in terms of the prayer made.

After four months and seven days, the appellant filed Review Application No.189 of 2010 for recall of order dated 7.5.2010 by asserting that its advocate had not sought withdrawal of the complaint. Alongwith review application, an affidavit of Shri Rajeev Kumar, Advocate was also filed. The National Commission dismissed the review application by observing that order dated 7.5.2010 was correctly recorded.

We have heard learned counsel for the appellant. In our view, the explanation given by the appellant for delayed filing of the appeal is not at all satisfactory and there is no valid ground for exercise of power by this Court under Section 5 of the Limitation Act for condonation of delay.

On merits also, we are satisfied with the impugned orders do not suffer from any legal infirmity warranting interference under Article 136 of the Constitution. The consumer complaint filed by the appellant was dismissed as withdrawn in view of the statement made by counsel appearing on its behalf. The statement made in the review application that the advocate had not prayed for withdrawal of the complaint was clearly an after thought. If this was not so,

3

the appellant would have filed an application immediately after disposal of the complaint. This being the position, the National Commission cannot be said to have committed any error by refusing to entertain the review application and we do not see any reason to interfere with the impugned orders.

The appeals are accordingly dismissed on the ground of delay and also on merits.

.....J.  
( G.S.SINGHVI )

.....J.  
( ASOK KUMAR GANGULY )

NEW DELHI;  
MARCH 18, 2011.

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). 6405 OF 2011 (FOR PREL.HEARING)

IRLA COOP HNG.SOCIETY LTD. Appellant (s)

VERSUS

M/S PRIME DEVELOPERS & ORS. Respondent(s)

(With appln(s) for condonation of delay in filing appeal)

Date: 18/03/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr.Rajeev Kumar, Adv.  
Mr. Pukhrambam Ramesh Kumar, Adv.  
Mr.Rajan Mani, Adv.

For Respondent(s)

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

The appeals are dismissed on the ground of delay and also on  
merits in terms of the signed order.

( Satish K.Yadav )  
Court Master

( Phoolan Wati Arora )  
Court Master

( Signed order is placed on the file )