

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
UTTAR PRADESH, LUCKNOW**

APPEAL NO. 2158 OF 2010

(Against the judgment/order dated 02-11-2010 in Complaint
Case No.381/2009 of the District Consumer Forum, Meerut)

Meerut Development Authority

.....Appellant

Vs.

Sri Mahendra Kumar Maheswari

.....Respondent

BEFORE:

**HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT
HON'BLE MR. CHANDRA BHAL SRIVASTAVA, MEMBER**

For the Appellant : Sri Sarvesh Kumar Sharma, Advocate.

For the Respondent : Sir V B Bisaria, Advocate.

Dated : 12-05-2011

JUDGMENT

MR. JUSTICE BHANWAR SINGH, PRESIDENT (ORAL)

We have heard Sri Sarvesh Kumar Sharma, learned Counsel for the appellant and Sri V S Bisaria, learned Counsel for the respondent and perused the record.

The question we are called upon to answer may be framed as follows:-

Whether the respondent/complainant is liable to pay the price of the Plot No. B-165 measuring 112.50 square meters as originally fixed with marginal escalation or he would be liable to pay the price of the said plot on the presently prevailing rate in the area?

Recapitulating the facts of this case it may be observed that the appellant Authority allotted the aforesaid plot to the complainant in the year 1991 and while issuing the allotment letter the complainant was asked to pay a total price of Rs.54,400/-. He had to pay the said price by way of instalments. The complainant complied with the terms and conditions of the allotment letter and with the additional demand for payment of interest he deposited a sum of Rs.52,162/- upto the year 1996. The Shatabdi Nagar Scheme of the Meerut Development Authority



had run into rough weather at the very initial stage on account of the farmers' agitation. It was on account of this handicap that the Meerut Development Authority could not take up the development and construction activities at the relevant site and perhaps it was for this reason that possession of the plot could not be handed over to the complainant.

It is borne out from the record that there was a complete silence on the part of both the parties from the year 1996 until a letter of additional demand on 06-05-2003 was despatched to the complainant. It is borne out from the record that in between two more letters dated 03-11-1998 and 26-08-2000 were despatched to the complainant but neither of the two parties have been able to produce their copies before us, nor they were filed before the District Consumer Forum. Therefore, it is difficult to ascertain the contents of the said letters. However, the fact remains that by means of the letter dated 06-05-2003 demand of the additional price alongwith penal interest was made. A perusal of this letter dated 06-05-2003 would reveal that the cost of the Plot No. B-165 was raised by Rs.24,060/- and an additional sum of Rs.48,000/- was levied as penal interest. Thus a total sum of Rs.72,060/- was demanded by means of the said letter.

In our considered opinion, the demand of penal interest was in the circumstances of this case not justified at all as neither the Development Authority had developed ^{in time} the plot at the site, nor its possession was handed over to the complainant, even though he had deposited the entire price of Rs.52,162/- in accordance with the terms of the allotment letter. No doubt there was a plausible reason for the delay on the part of the Development Authority for not having developed the site in time but with the passage of time it would not have become entitled to claim penal interest from the allottees including the complainant. It is not clear from the record nor the Development Authority has filed any letter for our perusal, as to when the first demand on account of the escalation of price was pressed into service. We, therefore, hold that the letter of 06-05-2003 was the first letter of demand by which additional cost of Rs.24,060/-

was asked to be deposited. It appears that the complainant was reluctant to comply with the additional demand as he had a conception that delay was on the part of the Development Authority and, therefore, he having deposited the entire price at the old rate was not liable to pay the amount of escalated price. It is a settled proposition that a Development Authority can escalate the price of a plot or a house to a certain extent provided such escalation is justified. A period of more than 12 years had passed when this additional demand was made and we do not find any cogent ground to hold the said demand to be ~~or~~^{to} unreasonable. But certainly as said above the demand of the penal interest being not justified deserves to be quashed.

Accordingly we hold that the complainant would be liable to pay the escalated price of Rs.24,060/- only in addition to the additional cost of compensation @ Rs.247/- per square meter. The learned Counsel for the complainant is willing to pay the said levy of compensation.

The cancellation letter though subsequently recalled by the Meerut Development Authority vide its order dated 25-11-2008 was neither filed before the District Consumer Forum, nor before us. We are, therefore, not in a position to ascertain as to what were the contents thereof and what was the ground on the basis of which the cancellation had been issued. The complainant had sworn an affidavit that it was never received by him either in the year 2005 or even subsequently thereafter. In the circumstances, as argued by the learned Counsel for the complainant, a possibility of it being a mere paper transaction cannot be ruled out. Perhaps it was on account of the ignorance of any such paper transaction that the complainant had not taken any action upto the year 2008 but when he orally enquired from the office of the Development Authority in the year 2008, he came to learn that some cancellation orders had been issued. In that event he thought it better to move an application for revival of his allotment and it was on his request that his allotment had been restored vide letter dated 25-11-2008 but on an onerous liability of present rates.

According to the present price of the land, the cost of the plot had

swollen to Rs.4,79,500/-. A question which arises for our determination is as to whether the complainant can be forced to pay the said huge sum without any rhyme and reason. There seems to be no confusion on the issue that there is word of difference between an escalated price of the plot and the price fixed on the basis of the old and present rates. The escalation has to be marginal commensurate to the cost of development and a few other factors such as increase in the compensation of the land to be paid to the farmers. But the present price of the land would completely devastate the theory of revival or an entitlement of the old allotment that too made in the year 1991. The learned Counsel for the complainant do not have any hesitation in making payment of the marginally escalated cost but as argued by him it is not conceivable to accept the theory of fresh allotment on the present price of the land. The complainant carried out all the terms and conditions of the allotment letter. Although initially he was not asked to pay any interest, yet when he was directed to pay the interest also he started making payment of the interest with effect from the due date of 6th instalment and as per demand of the Development Authority, he paid the last three instalments alongwith interest. He discharged his liability of making the entire payment by the year 1996 and then had a long wait upto the year 2008 until when he heard about the cancellation of his allotment. As argued by the learned Counsel for the complainant, he had not received even a single letter during the period of 12 years commencing from the year 1996. The letters allegedly despatched by the appellant in the year 1998 and 2000 as also the demand letters dated 06-05-2003, 11-08-2003 and 06-02-2004 were not received by the complainant. Obviously, thus the complainant was kept in dark from the year 1996 upto the year 2008 and although paper activities were on on the side of the Meerut Development Authority, yet there was no communication at all to the complainant. This is also confirmed from a newspaper report as published in the Amar Ujala newspaper of January 20, 2011. It appears to be an interesting reading of the news item giving description of the activities of the farmers. The reproduction of the news item may very well reflect upon

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the gravity of the issue subsisting between the Development Authority and the farmers who had all along been agitating for better compensation from the year 1991 until the issue has been settled in the current year.

The said news item of January 20, 2011 may be quoted as below:-

'किसान नगर' में लंगर आज से

शताब्दी नगर में उग्र हो रहा किसानों का धरना

अमर उजाला ब्यूरो

परतापुर। शताब्दी नगर में किसानों का धरना उग्र रूप धारण करता जा रहा है। ठंड में हुक्का गुड़गुड़ा रहे किसानों ने बृहस्पतिवार से धरना स्थल पर ही चूल्हा जलाने का फैसला लिया है। यानी बृहस्पतिवार से किसान नगर में लंगर शुरू हो जाएगा। वहीं, ठंड से कई किसानों की हालत बिगड़ने लगी है। लेकिन अभी तक न तो एमडीए और न ही स्वास्थ्य विभाग के अधिकारियों ने कोई सुध ली है। बुधवार को एमडीए कैम्प कार्यालय के सामने छठे दिन भी धरने में कई गाँवों की बड़ी संख्या में महिला और पुरुष धरने पर बैठे रहे। किसान टेंट लगाकर दिन रात धरना सील पर ही डेरा डाले हुए हैं। छठे दिन भाकियू नेता चौ. इलम सिंह ने धरने की अध्यक्षता की। उन्होंने कहा कि किसान किसी भी ज़ांसे में आने वाले नहीं हैं। संचालन कर रहे किसान नेता नरेंद्र सिंह ने कहा पूर्व की तरह गुरुवार से किसानों के लिए भंडारा होगा। गुरुवार से कढ़ाई चढ़ जाएगी। बुधवार को धरनास्थल पर रस की खीर की व्यवस्था रही।

खुद ही अलाव व्यवस्था

किसान रात-दिन धरनास्थल पर ही रह रहे हैं और ठंड से बचने को जंगलों से लकड़ी लाकर अपने लिए अलाव की व्यवस्था कर रहे हैं।

'घटना घटी तो प्रशासन जिम्मेदार'

भाकियू नेता विजयपाल घोपला का कहना है कि सभी प्रभावित गाँवों के किसानों ने लगभग 120 टेंट धरनास्थल पर लगा दिए हैं। किसानों की आमद बढ़ रही है और गाँव खाली हो रहे हैं। उनका कहना है गाँवों में कुछ महिलाएं और पशु शेष रहे गए हैं। अगर कोई घटना गाँव में होती है तो जिम्मेदार पुलिस प्रशासन होगा। धरने में डा० अमरवीर सिंह, अशोक शर्मा, लक्ष्मण लोकेंद्र, सहंसरपाल, नाहर सिंह, जयकरण सिंह, यादराम आदि रहे।

'बड़े नेता करेंगे अगुवाई'

किसान नेता विजयपाल घोपला ने बताया कि मंडल अध्यक्ष और कुछ अन्य बड़े नेता इलाहाबाद से गुरुवार को मेरठ आ रहे हैं। उन्हीं के निर्देश पर आंदोलन की रूपरेखा तैयार होगी। इस बार किसान प्रशासन के बहकावे में नहीं आएंगे।

However, the another news item of February 17, 2011 published in an another Hindi newspaper "Hindustan" appears to indicate that a

settlement has been arrived at between the agitating farmers and the Meerut Development Authority. This news item too being very relevant and having a significant bearing upon the present dispute is worth ^{quoting} ~~collecting~~ and the same is, therefore, reproduced as below:-

23 साल' ने बनवाया समझौता एनक्लेव

किसानों से विवाद निपटने के बाद एमडीए ने की घेषणा, 168 मकान और 349 प्लॉट की स्कीम लाने का है विचार, इसी महीने लॉन्च होगी स्कीम

वरिष्ठ संवाददाता

मेरठ

शताब्दीनगर में लगभग 23 साल के बाद हुए किसानों से समझौते को अब एमडीए ने विशेष महत्व देने का फैसला किया है। जिसके तहत इसी माह 'समझौता एनक्लेव' नाम से एक स्कीम लाने की योजना है। इस स्कीम में अल्प आय वर्ग के लिए 168 मकान और सभी वर्गों के लिए 349 प्लॉट होंगे। सबसे अधिक 105 प्लॉट 60 वर्ग मी. के होंगे।

किसानों से समझौते और मुआवजा वितरण की कार्यवाही शुरू होने के बाद अब एमडीए ने शताब्दीनगर की जमीन के बिक्री की योजना पर भी विचार शुरू कर दिया है। जिसके तहत ही प्राधिकरण ने सेक्टर-7 में जमीन पर कब्जा मिलते ही मकान और प्लॉट का रजिस्ट्रेशन खोलने के लिए काम शुरू कर दिया है। इस इनक्लेव का रेट 8500 रुपये प्रति वर्ग मी. होगा। 30 मी. से लेकर 288 वर्ग मी. के प्लॉट उसमें शामिल होगा।

समझौता एनक्लेव में प्लॉटों का ब्योरा

आकार	संख्या
288 वर्ग मी.	14
200 वर्ग मी.	60
162 वर्ग मी.	60
120 वर्ग मी.	50
90 वर्ग मी.	35
60 वर्ग मी.	105
30 वर्ग मी.	25

"प्राधिकरण हमेशा से किसानों को सम्मान दे रहा है। अब समझौता एनक्लेव के नाम से स्कीम लांच कर भी एक सम्मान दिया जाएगा। जमीन पर किसानों से कब्जा लेकर स्कीम लांच किया जाएगा।"

It is clear from above that after a lapse of about 20 years escalation in the price of the plot can well be justified but ^{only} if it remains confined to a marginal increase. ^u However, ~~but~~ changing the entire scenario and forgetting the old rates and price and fixing the price of the plot at the present rate would

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prove to be extremely harsh for the complainant as for no fault of his he has been made to wait for over two decades. As said earlier he paid the entire price fixed earlier well within time and also traversed through a physical and mental agony while waiting for 20 years and going from pillar to post, roaming around the office of the Meerut Development Authority and getting harassed. Therefore, he cannot be subjected to present price of the plot, particularly when he was not at fault at any point of time.

Keeping all the above discussed important aspect of the matter in view, we are inclined to hold that the complainant is liable to pay the price of the plot as originally fixed in the year 1991 with marginal escalation as concluded above. In other words, he will not be liable to pay the price of the plot on the basis of the present rates. The question framed by us is answered accordingly.

The appeal stands dismissed with a direction to the Meerut Development Authority to execute the sale deed of the plot allotted to the complainant within a period of two months and handover possession to him. Need not to say that the complainant will bear the expenditures of the sale deed besides making payment of the freehold charges and other relevant charges on the counts of sewer and water etc. but by no stretch of reasoning he will be asked to pay any kind of interest. The costs shall be easy.


(JUSTICE BHANWAR SINGH)
PRESIDENT


(CHANDRA BHAL SRIVASTAVA)
MEMBER