

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

**APPEAL NO.2273 OF 2008**

(Against the judgment/order dated 16-10-2008 in Complaint  
Case No.368/2004 of the District Consumer Forum, Meerut)

Meerut Development Authority

.....Appellant

Vs.

Sri Yogesh Kumar

.....Respondent

**BEFORE:**

**HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT  
HON'BLE MR. SYED ALI AZHAR RIZVI, MEMBER  
HON'BLE MR. RAMPAL SINGH, MEMBER**

For the Appellant : Sri V S Bisaria, Advocate.

For the Respondent : None appears

Dated : 20-12-2010

**JUDGMENT**

**MR. JUSTICE BHANWAR SINGH, PRESIDENT (ORAL)**

Heard Sri V S Bisaria, learned Counsel for the appellant and perused the record. None is present on behalf of the respondent although notice had been despatched to the respondent/complainant. In the circumstances we proceed to decide this appeal on merit.

The Meerut Development Authority, the appellant was aggrieved of the impugned judgment dated 16-10-2008 whereby it was directed to handover possession of the Plot No. I-84 HIG category allotted to him alongwith the interest on his money in deposit with the appellant @ 18% per annum for the delay in delivery of possession. A sum of Rs.10,000/- was also awarded as compensation.

It is not disputed by the appellant that allotment of the above mentioned plot was made in the year 2001 and the complainant had deposited its entire price amounting to Rs.1,85,000/-. The appellant executed the sale deed in favour of the complainant but could not deliver possession of the plot for quite a long time as a result of which the complainant was obliged to file his complaint before the Forum below in

B Singh

—

Q

the year 2004. The said complaint remained pending with the District Consumer Forum for further four years and eventually it was decided on 16-10-2008 with the direction as indicated above.

The appellant has filed this appeal with an explanation for the delay and it is to the effect that possession of the plot could not be handed over on account of the agitation of the cultivators who demanded enhancement of the compensation and physically obstructed delivery of possession to the allottees.

We have scrutinized the entire record and we find ourselves to be not in a position to subscribe to the said averment of the Development Authority as there is not an iota of evidence to show that the farmers' agitation really caused a handicap in handing over delivery of possession. There is no F.I.R. that the farmers staged a dharna and caused any physical obstruction in the Development Authority's efforts to take possession of the land and carve out the plots and handover the same to the allottees. Also there is no news papers' cuttings and clippings to substantiate the theory of agitation. Also there is no agreement which might have, eventually, been arrived at between the farmers and the Development Authority regarding settlement of the dispute. The Development Authority has also not brought anything on record to prove that it had to pay the enhanced compensation following the agitation of the land owners. The crux is that there is absolutely nothing on record to substantiate the plea of farmers' agitation being the main handicap in delivery of possession.

Learned Counsel for the appellant submitted with reference to a copy of the letter dated 31-01-2008 (though the date is not clearly readable) that the complainant was asked to take possession of the plot in question. The veracity of this letter is in doubt as this letter was neither referred to in the pleading original or additional of the Development Authority nor it finds a reference in the judgment in appeal. Even as on date there is no positive information that the possession has been delivered or not. Under these circumstances we uphold the findings of the Forum below that there was a deficiency in service on the part of the

Rajgob

→ B


Re

:3:


Development Authority in handing over possession of the plot to the complainant. Also we hold that the appellant will be liable to pay interest for the delay in delivery of possession. However, the rate of interest appears to be usurious and needs to be reduced to 15% per annum in view of the fact that award of interest at this rate will meet the ends of justice and will also satisfy the complainant's claim. In so far as his prayer for compensation is concerned, we delete the said award clause of Rs.10,000/-.

Accordingly the appeal succeeds and the operative portion of the judgment is modified to the effect that the complainant will get interest on the amount in deposit with the appellant @ 15% per annum besides Rs.3,000/- as costs.

The appeal is disposed of accordingly.

  
(JUSTICE BHANWAR SINGH)  
PRESIDENT

  
(SYED ALI AZHAR RIZVI)  
MEMBER

  
20.12.10.  
(RAMPAL SINGH)  
MEMBER

pnt