

2009(6) SCR 434

ESTATE MANAGER, M.P. HOUSING BOARD

v.

RAJESH KUMAR GUPTA
(Civil Appeal No.2599 of 2009)

APRIL 16, 2009

[DR. ARIJIT PASAYAT AND ASOK KUMAR GANGULY, JJ.]

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J. 1. Heard learned counsel for the parties.

2. Leave granted.

3. Challenge in these appeals is to the order passed by the National Consumer Disputes Redressal Commission (in short the 'National Commission'). By the impugned order the National Commission set aside the order passed by the Madhya Pradesh State Consumer Disputes Redressal Commission (in short the 'State Commission') The respondents had filed complaints before the District Consumer Disputes Redressal Forum, Indore (in short the 'District Forum') making a grievance that the present appellant Board cannot charge 10% extra charge for a corner plot and 5% extra charge for best location plot. According to the complainant these amounts are not payable as the appellant Board had accepted the amounts payable without such charges. The District Forum accepted the complaints and directed that the charges levied and demanded cannot be collected. Questioning the correctness of the orders passed by the District Forum the State Commission was moved by way of appeal by the present appellant. The appeal was allowed. It was specifically noted that the District Forum had not kept in view the fact that there is a provision in the

manual issued by the Board in the year 1978 about such levy. The State Forum also referred to various documents like the Board's advertisement relating to registration for Higher Income Group Houses, Indore. The order of District Forum was set aside by the State Forum. Questioning the correctness of the orders passed by the State Commission revision petitions were filed before the National Commission which was allowed by the impugned order.

4. Learned counsel for the appellant Board submitted that the National Commission did not take note of various relevant documents like the advertisement relating to registration for Higher Income Group Houses, letter of allotment and the terms and conditions of registration and allotment. It was also pointed out that in the allotment letter the demand was made specifically for 10% for corner plot charges and 5% for best location plots. Learned counsel for the respondent on the other hand submitted that the District Forum and National Commission took note of the fact that since the house was allotted after draw of lots in the lottery, there is no question of the Board making a demand in the manner done.

5. Various documents referred to by learned counsel for the appellant Board leaves no manner of doubt that the demand was authorised in terms and conditions of registration of allotment which has been specifically indicated as follows:

As per the prevailing Rules of the Board, on house situated in the corner a price of 10% and house situated on the main road a separate price of 5% shall have to be given. In addition to the average land of the house the price of more land shall be taken separately which will be informed as per the actual map certificate at the time of allotment of the house. As per rules these rate and other charges shall be payable separately.

6. The National Commission was of the view that because by sheer chance of luck the draw of plot in the lottery the plot was allotted the principle relating to charging the additional amounts for the best location or corner plot cannot be applicable. This conclusion is contrary to the advertisement made for registration of the house. It has been specifically mentioned therein that the registration of the house shall be determined by the lottery and the terms and conditions of registration and allotment specifically provided for additional charges. That being so, the view taken by the National Commission cannot be sustained and is set aside. In other words, the order passed by the State Commission is maintained while those of the District Forum and the National Commission get nullified.

The appeal is allowed.

SLP(C) No. 2557/2005, 2625/2005, 2702/2005, 2775/2005, 2785/2005:

Leave granted.

In view of the order passed in Civil Appeal No...../2009 @ SLP(C) No. 20606/2004 these appeals deserve to be allowed. The impugned order of the National Commission so far as it relates to nullification of charges for the corner plot and the best location plots in each case is set aside. Additionally, on the facts of the case the direction for levy of interest cannot be maintained and the interest directed to be paid stand set aside.

The appeals are allowed.