

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 1255 OF 2013

(Against the Order dated 02/01/2013 in Appeal No. 247/2008 of the State Commission
Punjab)

1. HOSHIARPUR IMPROVEMENT TRUST & ANR.

2. EXECUTIVE OFFICER

HOSHIARPUR TRUST

HOSHIARPUR

PUNJAB

.....Petitioner(s)

Versus

1. MOHAN LAL & ANR.

S/O JAI RAM, R/O BASANT VIHAR

HOSHIARPUR

PUNJAB

2. MOHINDER SINGH (LRS), S/O JAI RAM,

R/O BASANT VIHAR

HOSHIARPUR

PUNJAB

.....Respondent(s)

BEFORE:

**HON'BLE AVM J. RAJENDRA, AVSM VSM (Retd.),PRESIDING
MEMBER**

FOR THE PETITIONER :

FOR THE PETITIONERS : MR. NEERAJ SHARMA, ADVOCATE
THROUGH VC

FOR THE RESPONDENT :

FOR RESPONDENTS : NONE APPEARED

Dated : 31 May 2024

ORDER

1. The present Revision Petition has been filed under Section 21(b) of the Consumer Protection Act, 1986 (the "Act") by the Petitioners/ OPs challenging the impugned order dated 02.01.2013 passed by the learned State Consumer Disputes Redressal Commission, Punjab, Chandigarh (the 'State Commission'), pertaining to Appeal No. 247/ 2008 and affirmed the order passed by the District Consumer Disputes Redressal Forum, Hoshiarpur ("District Forum") in C.C. No.269/2007.

2. For convenience, the parties are referred to as placed in the original Complaint filed before the District Forum.

3. Brief facts of the case, as per the Complainant, are that he along with other co-owners, was in possession of 27 Kanals 18 Marlas of land, which was acquired by the Petitioners/OPs in 1976. As a Local Displaced Person (LDP), he applied for plot allotment under resolution No. 1118, depositing Rs. 500/- as the Application fee within the period stipulated. He was entitled to a plot of 500 Sq Yds for local displaced persons. Plots No. 284 & 285, measuring a total of 496 Sq Yds, were allotted to them. However, the remaining area of 496 Sq Yds has not been allotted despite repeated requests. Aggrieved by this, they filed a Consumer Complaint before the District Forum, seeking the allotment of a 504 square yard plot, specifically plots No. 273 and 112 in Scheme No. 10, at the reserve price, along with the cost of litigation.

4. In response, the OPs raised several preliminary objections and asserted that the Complainants are not consumers and that the complaint is false, frivolous, and vexatious. On merits, the OPs admitted that the 27 Kanals 18 Marlas of land owned by the complainant was acquired, and they were entitled to two plots, each measuring 500 square yards under the rules of 1975. It was also admitted that the Secretary to the Govt of Punjab, Department of Local Government, Chandigarh, ordered the Trust to allot 500 Sq Yds plots each to the Complainants vide order dated 02.05.2001. As per resolution No. 1118, two plots, both measuring 496 square yards, were allotted to the Complainants. However, the OPs contended that the Complainants sold these plots. According to the OPs, plots No. 284 and 285 were accepted by the Complainants, and their claims stood satisfied; therefore, they are not entitled to any other area as claimed. The OPs prayed for the dismissal of the complaint.

5. The District Forum in its Order dated 19.02.2008 allowed the complaint with the following observation: -

“11. That the claim of the complainants is that as per the rules 1975 (hereinafter called the Rules) they were entitled for plot measuring 500 Sq.yards each in Scheme No. 10. HIT. Hoshiarpur. The complaints launched the proceedings against the OP No.1 for their entitlement of a plot of 500 Sq yards each as Local Displaced Person and ultimately, the Principal Secretary of Local Government ordered the OP No.1 to allot he plot to the complainants of 500 sq yards each vide order dated 2.5.2001.

12. It is further the claim of the complainants that vide Resolution No. 1118, the OP No.1 decided and admitted the claim of the complaints for allotment of plot to each of the complainant of 500 Sq yards. The OP allotted plots No.284 and 285 in Scheme No.10 and the area of both the plots was 496 Sq.yards. That the complainants paid the development charges of plots No.284 and 285 and the possession of the said plots was delivered to them.

13. It is also the claim of the complaints that the OPs have failed to allot the plots to them of the remaining area of 504 Sq.yds. The complainants served legal notice upon the OPs. That in compliance of the order of the Court, the OPs allotted plots No.284 and 285 to the complaints. The complaints paid the price of the allotted plots No. 284 and 285 to the OPs. The OPs failed to allot the plot of 504 Sq. Yards. The complaints approached the OPs with the request to allot the plot measuring 504 Sq.yards. That

plots No.273 measuring 250 Sq. yards and Plot No.112 measuring 240 Sq. Yds are lying vacant in scheme No. 10 and the said plots can be allotted to them.

14. Now, it is proved that the complainants are entitled for another plot measuring 504 sq.yards @ Rs.275/-per sq yd yard. Since the OPs have failed to allot the plot to the complaint, it amounts to deficiency in service on the part of the OPs. This being so, the complaint of the complaints is accepted and the OPs are directed to allot another plot measuring 504 sq.yards @ Rs.275/- per sq yd as per rules to the complaints. The OPs are further directed to pay Rs. 1000/- as costs litigation within one month from the receipt of copy of the order. Copy of the order be sent to parties free of cost. File be consigned to the record.”

6. Being dissatisfied by the Order dated 19.02.2008, OPs filed an Appeal and the State Commission vide Order dated 02.01.2013 dismissed the Appeal 2008 and affirmed the order dated 19.02.2008 passed by the District Forum with the following observations:

“4. After hearing arguments of the learned counsel for the parties and perusing the record, learned District Forum allowed the complaint in terms as mentioned in the opening para of this order. The OPs have challenged the same through this appeal.

5. The learned counsel for the respondent last appeared in this appeal on 3.11.2009. Thereafter the appeal was adjourned a number of times but none appeared for the complainants. Since the appeal is pending since 2008 it was considered proper not to adjourn it further when the respondents-complainants are not taking interest in pursuing the appeal. We have, therefore, heard arguments of the learned counsel for the OP-appellants and have perused the record.

6. The OP-appellants have admitted that 27 Kanal 18 Marlas of land owned by the complainants was acquired by it and in lieu thereof the complainants were entitled to 500 square yards plot each as local displaced persons. It was also admitted that the Principal Secretary to Government of Punjab, Department of Local Government, Chandigarh vide order dated 2.5.2001 had directed the OP-appellants to allot the aforesaid plots to them. Mark C-3 is the order passed by the Principal Secretary to the Government of Punjab on the representation filed by the complainants against the OP-appellants. It, therefore, shows that under the rules governing the allotment of plots to displaced persons and also as per order Mark C-3 dated 2.5.2001 the complainants were entitled to two plots of 500 sq yds each. It is also true that the OP-appellants have allotted two plots total measuring 496 sq yds. The contention of the learned counsel for the OP-appellants is that the said allotment was accepted by the complainants and, therefore, it would be deemed that their claim is satisfied. Neither there was any such term attached to the letter of allotment nor the complainants accepted the said allotment in total satisfaction of their claims and, therefore, this

ground which is now being taken by the OP- appellants cannot be accepted as correct. The complainants are entitled to 500 square yards each and if some area has already been allotted in the shape of two plots, the rights of the complainants to the remaining area are still intact and it is the duty of the OP-appellants to allot the remaining area also.

7. In view of the above discussion, we are of the opinion that the learned District Forum rightly allowed the complaint, there is no merit in this appeal and the same is dismissed with costs. Litigation costs are assessed at Rs.10,000/-.

8. The OP-appellants had deposited an amount of Rs.500/- with this Commission at the time of filing of the appeal on 24.3.2008. This amount of Rs.500/- with interest accrued thereon, if any, be remitted by the registry to the respondents-complainants by way of a crossed cheque/ demand draft after the expiry of 45 days under intimation to the learned District Forum and to the OP- appellants.”

7. In his arguments, the learned Counsel for the Petitioner Trust has reiterated the grounds of the petition. He asserted that Rs. 500/- deposited by the Complainant was merely application money and not earnest money for plot allotment under the LDP category. As he was a co-sharer in the acquired land, for which a plot was already allotted, he was not entitled to further allotment under the LDP category. He argued that the Complainant did not qualify as a Consumer under the Act and thus was not entitled to any relief. Citing legal precedents, it was emphasized that a person who applied for allotment but did not receive it did not fall under the definition of a Consumer. He sought to set aside the impugned orders passed by the Lower Fora below and dismiss the complaint filed before the District Forum.

8. None appeared on behalf of the Respondents/Complainant on 11.03.2024. However, the learned Counsel for the Respondents/Complainants in its Written Synopsis, submitted in favour of the impugned orders passed by the fora below. He sought dismissal of the Revision Petition.

Top of Form9. I have examined the pleadings and associated documents placed on record and rendered thoughtful consideration to the arguments advanced by the learned Counsels for the Petitioner and the Written Synopsis filed by the Respondents/Complainants.

10. It is uncontested position that some land of the Complainant was acquired and there was no dispute with respect to the land transaction as per law and the compensation awarded. Therefore, with respect to the land acquisition, the matter is already settled. Now, the further issue is the grievance of the Complainant is that the acquisition authority did not allot the plot to him as per the policy. Thus, the main issue at this stage is whether the Complainant is

a consumer with respect to the dispute in question? If so, whether he is entitled for consideration for allotment of a plot being a Local Displaced Person under?

11. Adverting to the first issue, the definition of the term 'Consumer' as contained in Section 2(1)(d) of the Act of 1986 and now repealed by Section 2 (7) (i) & (ii) of the Consumer Protection Act, 2019 reads:

(7) "consumer" means any person who—

(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment, when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or

(ii) hires or avails of any service for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such service other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person, but does not include a person who avails of such service for any commercial purpose.

Explanation.—For the purposes of this clause,—

(a) the expression "commercial purpose" does not include use by a person of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment;

(b) the expressions "buys any goods" and "hires or avails any services" includes offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing; **(Emphasis supplied)**

12. The Complainant contended that he fulfilled all necessary requirements and deposited the requisite fees for plot allotment as per the rules in vogue at the time of the Application. On the other hand, the Hoshiarpur Improvement Trust asserted that the Complainant's

Application was made after an unreasonable delay and that the rules governing plot allotment had already changed, rendering the Complainant ineligible under the new regulations. Therefore, the central issue involves determining the Complainant's entitlement for allotment of a plot under the applicable rules the scope for adjudication under the Act.

13. In the case at hand, the Complainants, who are landowners, asserted their entitlement to plot allotment as local displaced persons. The Hoshiarpur Improvement Trust argued that the complainants do not qualify as consumers. Admittedly, the transaction between the parties involved a payment of Rs.500 at the time of applying for the plot allotment, but no plot was allotted, and there was no consideration paid for it.

14. [A local displaced person under the Resettlement of Displaced Persons \(Land Acquisition\) Act, 1948 is someone who, due to the establishment of the Dominions of India and Pakistan or civil disturbances in areas now part of Pakistan, has been displaced from their place of residence after March 1, 1947, and subsequently resided in India.](#) This Act aims to **speedily acquire land** for the resettlement of such displaced individuals. However, it's important to note that the **Land Acquisition Act, 1894** determines compensation and rehabilitation benefits for displaced people based on **individual ownership of the acquired land**. [It does not recognize collective rights, which means that people who have traditionally depended on common property resources for generations may not be entitled to compensation under this Act.](#)

15. In summary, **Rule 7(ii) of the Punjab Town Improvement (Utilisation of Land and Allotment of Plots) Rules, 1983** specifies the maximum area of the plot that can be allotted to an **LDP**. [The maximum area of the plot allotted as LDP can only be 500 Sq Yds.](#) The OP has also contended that the plot to be allotted under the policy has already been allocated appropriately, and the Complainant is not entitled for the same.

16. The mandate of the Consumer Protection Act is safeguarding consumers' rights and interests in transactions related to goods and services. It does not address the scope for resolution of disputes with respect to substantive rights. The dispute in question pertains to entitlement of the applicant for allotment of a plot. It is not the case of deficiency in service after the Allotment. The resolution of dispute pertaining to the substantive right of entitlement for allotment of a plot to the Complainant falls outside the purview of a "Consumer Dispute" as defined by the Consumer Protection Act. Resultantly, the Complainants cannot be termed as consumers under the Act, and specific protections and remedies provided for consumers in the Consumer Protection Act were not applicable to the circumstances of this case. Top of Form

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As a result, the impugned orders passed by the learned State Commission and the District Forum are set aside, and the complaint filed by the Complainants is dismissed. The Legal Heirs of the deceased Complainants are granted liberty to pursue legal remedies through the

appropriate forum, in accordance with law. The RP No. 1255 of 2013 is disposed of accordingly.

18. However, the cost of Rs.22,500/- each imposed upon the Petitioners/OPs vide Order dated 12.05.2015 to be paid to the LR's of both the Complainants in equal share, within four weeks from today.

19. All pending Applications, if any, shall stand disposed of.

20. The amount deposited by the Petitioner in the matter, if any due, may be refunded along with accrued interest, if any, to the depositor after due compliance of this order.

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AVM J. RAJENDRA, AVSM VSM (Retd.)
PRESIDING MEMBER