

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION, HARYANA,
PANCHKULA.**

First Appeal No. 2630 of 2003.

Date of Institution: 18.11.2003.

Date of Decision: 20.11.2007

Naresh Juneja son of Shri Buta Mal Juneja, Resident of H.No.11, Type-IV, WYCHE
Hydel Colony, P.O. Bhud Kalan District Yamuna Nagar.

---Appellant.

Versus

1. Haryana Urban Development Authority, Sector-6, Panchkula through its Chief
Administrator.

2. The Estate Officer, Haryana Urban Development Authority, Sonapat.

---Respondents.

BEFORE:

Hon'ble Mr. Justice R.C. Kathuria, President.
Mrs. Shakuntla Yadav, Member.

For the Parties:

Mr. Anirudh Kush, Advocate for appellant.
Mr. Amandeep Singh, Advocate for respondents.

ORDER

R.C. Kathuria, President:

Challenge in this appeal is to the order dated 28.5.2003 passed by the District
Consumer Disputes Redressal Forum, Panchkula whereby the complaint filed by the
appellant-complainant against the respondents-opposite parties has been dismissed.

Put shortly, the facts of the case are that the complainant was allotted plot
No.1667 located in Sector-23, Sonapat as per letter bearing memo No.7159 dated
31.7.1991 on a tentative price of Rs.2,30,000/-. The complainant had deposited
Rs.2,44,069.30 by way of instalments in time. His grievance is that the opposite parties
failed to deliver the possession of the plot to him. The stand of the complainant was
contested by the opposite parties primarily on the ground of want of jurisdiction. On
merits it was pleaded that after completion of the development work in the area the offer
of possession of the plot was made to the complainant on 15.4.1999 in terms of Clause-7
of the allotment letter. On the basis of above pleadings of the parties and evidence
adduced on record the District Forum dismissed the complaint mainly on the ground that
the complaint was barred by limitation, as per order dated 28.5.2003. It is against this
order the complainant has come up in appeal.

Learned counsel representing the parties have been heard at length.



Alongwith the appeal an application seeking condonation of delay of 141 days in filing the appeal has been moved. As per report of the Registry there is delay of 142 days in filing the appeal. It has been stated in the application seeking condonation of delay that the order was reserved by the District Forum on 18.4.2003. The complainant being in service, his counsel was to supply the copy of the order to him. The order was pronounced on 28.5.2003 the copy of which was received by his counsel but inadvertently he did not send the same to the complainant. It was only on 8.11.2003 the complainant came to know about the fate of the case. Consequently, it was prayed that the delay be condoned. During the course of arguments learned counsel representing the appellant-complainant has reiterated the above stated facts. Opposing the submissions made, it has been strenuously urged by the learned counsel representing the respondents-opposite parties that no sufficient cause had been shown from the side of the appellant-complainant and for that reason the application moved deserved to be rejected.

The prayer made in this regard has to be decided in terms of the provisions of Section 15 of the Consumer Protection Act, 1986 (hereinafter referred to as the Act, 1986). It has been expressly provided in Section 15 of the Act, 1986 that any person aggrieved by the order made by the District Forum may prefer an appeal against such an order to the State Commission within a period of 30 days from the date of the order, in such form and manner as may be prescribed. The proviso contained therein permits the State Commission to entertain an appeal after the expiry of period of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within the stipulated period. The expression 'sufficient cause' has not been defined in the Act, rightly so, as it would vary from facts and circumstances of each case. At the same time while examining the question of condonation of delay, it has to be kept in mind that it is the duty of the condoning authority to record satisfaction of the explanation submitted as to whether it is reasonable and satisfactory which is essential pre-requisite for condonation of delay.

Adverting to the facts stated in the application it is manifest that admittedly the arguments in this case were heard on 18.4.2003. The complainant did not bother to contact his counsel till 8.11.2003. It is not understandable as to why the complainant

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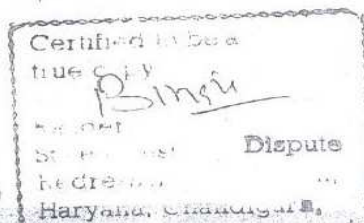
totally remained negligent and did not bother to know about the fate of his case when the order was pronounced on 28.5.2003. No effort has been made from the side of the appellant to furnish the affidavit of his counsel to support the grounds stated in the application. The complainant was duty bound to act not only bonafidely but also diligently in pursuing the matter. It appears that entire burden has sought to be shifted by the complainant on his counsel which for want of any material on record cannot be accepted. The averments made in the application on the face of record are vague and ambiguous and under the circumstances of the case it is not possible for us to hold that there was no negligence, inaction and deliberate indifference on the part of the appellant. While considering the prayer for condonation of delay, it has to be taken into consideration that the delay cannot be condoned on the ground of equity and generosity. It has to be kept in mind that expiration of the period of limitation prescribed gives a right to adversary to treat the order as binding between the parties and this legal right provided by lapse of time should not be disturbed light heartedly. The same can be said in the facts and circumstances of the present case. The explanation furnished from the side of the appellant is incapable of furnishing judicially acceptable ground for condonation of delay so as to term it as sufficient cause. Consequently, the application is rejected.

Even on merits there is no force in the appeal because the allotment of the plot was made to the complainant on 31.7.1991 and the possession of the same was offered to him on 15.4.1999, whereas the complaint came to be filed on 5.9.2002. In terms of the requirement of Section 24-A of the Consumer Protection Act, 1986 the complainant was duty bound to file complaint within a period of two years. The complainant has failed to show any sufficient cause for not approaching the District Forum within the period of limitation prescribed. Under the circumstances of the case the District Forum was fully justified in coming to the conclusion that the complaint was barred by limitation.

For the aforesaid reasons there is no merit in the appeal and the same is consequently dismissed.

DESPATCHED
NO. 6126-22 DATE 7.12.07

1. Case No. Announced: 20.11.2007
2. Date of Disposal 20.11.07
3. Date of issue of first copy 7.12.07
4. Order delivered by Post by Hand 11.12.07
5. Date of issue of duplicate copy



Sd/-
Justice R.C.Kathuria
President

Sd/-
Mrs. Shakuntla Yadav
Member

Signature with date
Bijay 7/12/07