
(2015) 02 NCDRC CK 0125

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

LUCKNOW
DEVELOPMENT
AUTHORITY

APPELLANT

Vs

ANOOP KUMAR

RESPONDENT

Date of Decision: Feb. 12, 2015

Hon'ble Judges: J.M.MALIK J.

Advocate: PARVEZ DABAS

Judgement

1. LEARNED counsel for the petitioner present.

2. THERE is delay of 554 days in filing this revision petition. The petitioner has moved an application for condonation of delay in filing the revision petition. The delay has been explained in paras 4, 5 and 6 of the application which are reproduced as under:

"4. That the panel lawyer of the petitioner authority did not inform the petitioner authority about the dismissal of the case. Thereafter the respondent moved a letter on 09.01.2014 to the petitioner authority for execution of registry of the suit properly only then the petitioner came to know about the dismissal of the appeal before the State Commission.

5. That thereafter the legal advise was sought for filing the revision petition before the Hon"ble N.C.D.R.C. The counsel at New Delhi advised to file revision.

6. That thereafter in the end of month of January, 2014, the case file was sent to counsel at Delhi for filing the revision petition."

3. THERE is huge delay in filing the present revision petition. The name of the panel lawyer was not disclosed. His affidavit also did not see the light of the day. It is the duty of the petitioner to go to the office of the advocate and get the next date of hearing. It shows negligence, inaction and passivity on the part of the petitioner.

The Apex Court in a recent case i.e. Sanjay Sidgonda Patil vs. Branch Manager, National Insu. Co. Ltd. and Anr., Special Leave to Appeal (Civil) No. 37183 of 2013 decided on 17.12.2013, confirmed the order of the National Commission and refused to condone the delay of 13 days. Likewise, delay of 78 days was not condoned by the Apex Court in the case of M/s Ambadi Enterprise Ltd. vs. Smt. Rajalakshmi Subramanian in SLP No. 19896 of 2013 decided on 12.7.2013. Again delay of 77 days was not condoned in case of Chief Off. Nagpur Hous. and Area Dev. Boa and Anr. vs. Gopinath Kawadu Bhagat, SLP No. 33792 of 2013 decided on 19.11.2013.

4. THIS view neatly dovetails with the Supreme Court authorities reported in Anshul Aggarwal v. New Okhla Industrial Development Authority, 2011 4 CPJ 63 , R.B. Ramlingam v. R.B. Bhavaneshwari, 2009 2 Scale 108; Ram Lal and Others v. Rewa Coalfields Ltd., 1962 AIR(SC) 361 and Bikram Dass Vs. Financial Commissioner and others, 1977 AIR(SC) 2221 and Office of the Chief Post Master General and Ors. Vs. Living Media India Ltd. and Anr. 2012 STPL(Web) 132 (SC).

5. THIS case is barred by limitation.

6. LET us turn to the merits of this case. Shri Anoop Kumar, the complainant applied for allotment of a house with Lucknow Development Authority. The opposite party allotted a house in favour of the complainant on 12.8.1992. The complainant has paid the entire

costs of the house in the sum of Rs.3,24,000/ -. The possession letter was issued on 19.11.1995. The complainant alleged that there were many defects and the house was not fit for habitation.

7. AT this stage, learned counsel for the petitioner submits that there were no defects at all and this is a false allegation. However, he admits that the electric fittings and other fittings were not yet fixed. It is thus clear that the house was not fit for use. Nobody could have lived there in absence of those fittings. However, the complainant took over the possession on 29.5.1998. The complainant filed a complaint with the District Forum. The District Forum allowed the complaint allowing 18% p.a. interest on the total amount deposited by the complainant, for the period from 1.2.1996 to 28.5.1998 and Rs.2,000/ - towards the costs of the case.

8. THE State Commission dismissed the appeal filed by the OP. Since this is an admitted fact that the fittings were not complete, I see no material irregularity or impropriety in the order passed by the fora below.

9. THE revision petition is without merits. Therefore, the same is dismissed as barred by limitation as well as on merits.