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**(2010) 04 NCDRC CK 0046**

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION**

**Case No:** None

HUDA

APPELLANT

Vs

Tulsi Sharma

RESPONDENT

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**Date of Decision:** April 6, 2010

**Citation:** 2010 2 CPJ 221

**Hon'ble Judges:** Ashok Bhan , S.K.Naik J.

**Final Decision:** R.P. dismissed.

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**Judgement**

1. PETITIONER allotted a plot to the respondent. When the respondent visited the site for taking possession, he found that the essential facilities like supply of water, street light as well as sewerage system had not been provided. There was no provision for disposal of sullage water as well. Aggrieved by this, respondent filed a complaint before the District Forum seeking a relief that the petitioner be directed to withdraw the possession of the plot till completion of the development work in the area and to withdraw the possession interest already charged on the instalments until the necessary conditions of the offer of the possession are not fulfilled.

2. DISTRICT Forum allowed the complaint in the following terms:

"Taking into consideration all the facts and circumstances of the case, we are of the considered opinion that the respondents are deficient on their part. One, who is deficient should be punished. So the respondents are directed to withdraw offer of possession till completion of development work completed. The respondents are further directed to withdraw possession interest on the remaining instalments and

to refund possession interest already charged on the instalments along with interest @ 12% p.a. from the date of deposit till the realization. The respondents are further directed to refund extension fees charged from the complainant. Complaint is accepted. No order as to costs. Parties be informed accordingly and file be consigned to the record-room after due compliance."

3. AGGRIEVED by this, petitioner filed an appeal before the State Commission which has dismissed the appeal holding that under Clause 7(1) of the allotment letter, possession of the plot was to be delivered to the allottee after completion of development work in the area.

4. WE have gone through the order passed by the District Forum as well as the State Commission. The petitioner did not appear before the State Commission in spite of the fact that the case was adjourned on earlier dates in the presence of its Counsel. Petitioner has attached certain documents with this revision petition showing that the development work had been carried out. These letters were not produced before the Fora below. They are sought to be put on record without even taking permission to file the additional documents. This sort of practice has to be deprecated. A document, which was not filed before the District Forum, cannot be put on record without taking permission to do so. The documents produced by the petitioner, under the circumstances, cannot be taken into consideration. We agree with the view taken by the State Commission that the petitioner has failed to produce anything on the record to show that the development work like supply of water, electricity and roads had been provided. Even reading of these documents produced before us, does not show that the electricity had been provided. Revision petition is dismissed with costs Rs. 5,000. We are imposing the costs as the petitioner has tried to put on record the documents which were not before the District Forum. Costs be deposited with Consumer Legal Aid Account. R.P. dismissed.