

Reportable

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI

REVISION PETITION NO. 3326 OF 2003

(From the order dated 21.7.2003 in F.Appeal No. 158/2003
of the State Commission, Haryana, Chandigarh)

Smt. Prem Kanta & Ors.
Wd/o Shri Joginder Pal
All Residents of Gole Market,
Model Town
Panipat.

..... Petitioners

Versus

1. Haryana Urban Development
Authority
Panchkula
Through its Chief Administrator
Haryana.

2. Estate Officer
Haryana Urban Development Authority
Sector-13, 17
U.E. Panipat.

..... Respondents

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NATIONAL CONSUMER DISPUTES
REDRESSAL COMMISSION
NEW DELHI-110 001

REVISION PETITION NO. 3327 OF 2003

(From the order dated 21.7.2003 in F.Appeal No. 156/2003
of the State Commission, Haryana, Chandigarh)

Surender Kumar & Anr.,
S/o Shri Kundan Lal
Both residents of Gole Market,
Model Town
Panipat.
through their Power of Attorney Holder
Shri Krishan Lal
R/o Dwarikapuri
Sirsa.

..... Petitioners

Versus



1. Haryana Urban Development
Authority
Panchkula
Through its Chief Administrator
Haryana.
2. Estate Officer
Haryana Urban Development Authority
Sector-13,17
U.E. Panipat. Respondents

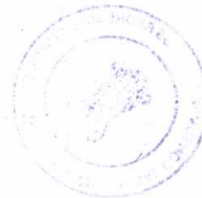
REVISION PETITION NO. 3328 OF 2003

(From the order dated 21.7.2003 in F.Appeal No. 159/2003
of the State Commission, Haryana, Chandigarh)

- Ishwar Chand & Anr. Petitioners
S/o Shri Ram Krishan
Through their Power of Attorney
Shri Krishan Lal
R/o Dwarikapuri
Sirsa.

Versus

1. Haryana Urban Development
Authority
Panchkula
Through its Chief Administrator
Haryana.
2. Estate Officer
Haryana Urban Development Authority
Sector-13,17
U.E. Panipat. Respondents



REVISION PETITION NO. 3182 OF 2003

(From the order dated 21.7.2003 in F.Appeal No. 157/2003
of the State Commission, Haryana, Chandigarh)

Suman & Ors. Petitioners
Wd/o Shri Narendr Kumar
All residents of Gole Market,
Model Town
Panipat.

Versus

1. Haryana Urban Development
Authority
Panchkula
Through its Chief Administrator
Haryana.
2. Estate Officer
Haryana Urban Development Authority
Sector-13,17
U.E. Panipat. Respondents

BEFORE:

HON'BLE MR. JUSTICE K.S. GUPTA,
PRESIDING MEMBER

HON'BLE MR. S. K. NAIK, MEMBER

For the Petitioners ... Ms. Meenakshi Arora, Adv.

For the Respondent ... Shri Rajat Vohra, Adv.



DATED: 27.5.2008

ORDER

JUSTICE K.S. GUPTA, MEMBER

This order will govern the disposal of RP Nos. 3326 of 2003, 3327 of 2003, 3328 of 2003 and 3182 of 2003 which arise out of a common order dated 21.7.2003 of Consumer Disputes Redressal Commission Haryana, Chandigarh.

Facts giving rise to these revisions lie in a narrow compass. Petitioners had individually filed complaint case Nos. 493 of 2002, 494 of 2002, 495 of 2002 and 496 of 2002 against the respondent-Authority which were disposed of by the District Forum by a common order dated 10.10.2002 with direction to the Authority to allot certain plots to the petitioners and petitioners were to deposit 10% of the earnest money alongwith application(s) for allotment of plot(s). Dissatisfied with Forum's order, the respondent Authority filed four appeals which were allowed and the order of District Forum was set aside and complaints dismissed. In its said order dated 10.10.2002, the District Forum had set out the facts of complaint case No. 493 of 2002- Surender Kumar & Anr. Vs. HUDA & Anr. It was alleged in the complaint that the complainants were the owner in possession of land measuring 2416 sq. yd. which was acquired vide award No. 4 dated 7.5.1992 for carving the residential/ commercial plots in Sectors-13 & 17, HUDA, Panipat. Under the oustees scheme, the



Authority had failed to allot plot of 10 marla each to the complainants. Direction was, therefore, sought to the Authority to allot plots to them. In remaining complaints identical allegations were made by the complainants whose lands were acquired by the Authority. In the written version, one of the objections taken by the Authority was that the complainants/ petitioners were not the 'consumers' and complaints were, therefore, not maintainable under the Consumer Protection Act, 1986 (for short the Act). However, this objection was not gone into by the District Forum. In appeal while dealing with this objection, the State Commission held :-

"After taking into consideration the submissions of the counsel for the appellant, we find merit in the appeals. The complainants can not be regarded as 'consumers' since there is no transaction of hiring of service for consideration between the complainants and the HUDA. Some land belonging to the complainants was acquired under the provisions of the Land Acquisition Act for which compensation had been paid in respect of the acquisition. We are of the view that the complainants can not be said to be 'consumers' for the reason that if there is any scheme for allotment of alternative site, even then the scheme does not operate to create any relationship in the nature of hiring of service for consideration between the complainant and the HUDA. In view of the matter, the appeals are allowed, impugned orders are quashed and the complaints are dismissed."

Submission advanced by Ms. Meenakshi Arora for the petitioners is that the conclusion reached by the State Commission in



regard to the petitioners not being 'consumer' is erroneous. It was pointed out that the complaints filed by other oustees had been allowed by the District Fora and pursuant to the orders of Fora allotment of plots had been made by the Authority and possession thereof also given. For appreciating the above submission, it is necessary to refer to the definition of 'consumer' as given in Section 2 (1) (d) (ii) of the Act. Sme reads thus:-

'Consumer' means any person who -

- (i)
- (ii) hires or avails of any services 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 services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or 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 services for any commercial purpose;

Explanation.- For the purposes of this clause, "commercial purpose" does not include use by a person of goods bought and used by him and services availed by him exclusively for the purposes of earning his livelihood by means of self-employment".

To be only noted that services for commercial purposes have been excluded from the purview of said clause (ii) by the Consumer Protection (Amendment) Act, 2002 w.e.f. 15.3.2003.

Under the scheme formulated by respondent Authority, the oustees whose land had been acquired, are entitled for allotment of



residential plots of the size depending upon the area of the land acquired subject to their making application(s) alongwith 10% of earnest money. Decision to allot plot(s) is taken by the Standing Committee. It is not in dispute that the petitioners had received compensation for the acquired land. Allotment of residential plot under the scheme is made as a gesture of goodwill. No element of 'hiring of service for consideration' of the respondent Authority by the petitioners is involved in such allotment. Petitioners, thus, can not be regarded as 'consumers' within the meaning of section 2(1)(d)(ii) of the Act as held by the State Commission. Orders, if any, passed by the District Fora in other complaints ordering allotment of plot(s) under the scheme being legally erroneous are of no help to the petitioners. There is no illegality or jurisdictional error in the aforesaid order passed by the State Commission warranting interference in revisional jurisdiction under section 21(b) of the Act.

Accordingly, revision petitions are dismissed. No order as to cost.



Mk/

Sd/-.....J
(K.S. GUPTA)
PRESIDING MEMBER

Sd/-.....
(S.K. NAIK)
MEMBER