

SUPREME COURT OF INDIA

M.D., Orissa Co-operative Housing Corporation Ltd.

Vs.

K.S. Sudarshan

C.A.No.36 of 2003

(D.K. Jain and B. Sudershan Reddy JJ.)

29.04.2009

ORDER

1. This appeal, by special leave, is directed against order dated 16th March, 2002, passed by the National Consumer Disputes Redressal Commission, New Delhi (hereinafter referred to as the 'National Commission') in Revision Petition No.1468 of 2001. By the impugned order the Commission has affirmed the order passed by the State Consumer Disputes Redressal Commission Orissa, awarding interest to the complainant at the rate of 12% per annum from 26th October, 1995 to 6th April, 1999 on account of failure on the part of the appellant to develop the land and deliver possession of the plot to the complainant- respondent. Despite service, no one appears for the respondent. Accordingly, we have heard learned counsel for the appellant. At the outset, it is fairly pointed out by learned counsel for the appellant that the question of jurisdiction of the Consumer Fora to entertain and try complaints under the *Consumer Protection Act, 1986* (for short the 'Act') when there is a Bar under the Co-operative Societies Act to the jurisdiction of the Civil Courts to entertain any dispute between the Co-operative Society and its members, is no more res-integra. In *Secretary, Thirumurugan Cooperative Agricultural Credit Society vs. M. Lalitha (dead) Through L.Rs. & Ors.*¹ while dealing with a similar issue with reference to Section 90 of the Tamil Nadu Co-operative Societies Act vis-a- vis the jurisdiction of the Consumer Forum under the Act it has been held by this Court that the remedy available to an aggrieved party under the Act being much wider in its scope, Section 90 of the Tamil Nadu Co-operative Societies Act does not oust the jurisdiction of the Consumer Forum to adjudicate upon disputes between the members and the Co-operative Society under the said Act. Thus the short question that survives for consideration in this appeal is whether all the three Fora were justified in awarding interest to the complainant on account of non-development and non-delivery of the plots. Having carefully gone through the orders passed by the three Fora, we are of the opinion that there is no merit in the present appeal. In its order dated 11th May, 2000, the Consumer Disputes Redressal Forum, (for short the 'District Forum') recorded a specific finding that the appellant herein had abandoned the development work and thus there was deficiency in service by them. It has been noted that the complainant had deposited an amount of Rs.1,03,215/- but the possession of the plot, for which the said amount had been paid, was not delivered to him. Accordingly, the District Forum directed that in case of

delivery of possession of the plot the complainant shall be entitled to interest at the rate of 16% per annum on the said amount from 26th October, 1995 i.e. the date of last deposit till the date of refund i.e. 16th April, 1999. As noted earlier, the State Commission, while affirming the order passed by the District Forum reduced the interest from 16% to 12% per annum. The said order of the State Commission is maintained by the National Commission. It is manifest from the orders passed by the District Forum as well as the State Commission that undoubtedly there was deficiency in service by the appellant Society inasmuch as it has failed to develop the land for which it had accepted money from its members including the respondent. In view of the said finding, no fault can be found with the award of interest by the three Fora on account of the said deficiency. Accordingly, being devoid of any merit, the appeal is dismissed. Since the respondent has not appeared there will be no order as to costs. SLP(C) NO.18981/2005: In view of the decision of this Court in *Secretary, Thirumurugan Cooperative Agricultural Credit Society vs. M. Lalitha (dead) Through L.Rs. & Ors.*¹ we do not find any ground to interfere with the impugned order. The special leave petition is dismissed.

¹2004 (1) SCC 305