



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 2362 OF 2024

ASHOK VITTAHLRAO JAISINGPURE

Vrs.

ASHOK SONBAJI DHABEKAR AND ANOTHER

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Nalin Majithia, Advocate for petitioner.
Ms. Swati Paunikar, Advocate for respondent No.1.

CORAM: ANIL S. KILOR, J.

DATE : 30/04/2024.

1. The order passed by the National Consumer Disputes Redressal Commission, New Delhi dated 23/03/2023 rejecting the first appeal preferred by the petitioner and confirming the Judgment and order passed by the State Consumer Disputes Redressal Commission, Circuit Bench at Nagpur dated 18/12/2018 directing the petitioner to allot another plot of same specification and in case of failure, alternatively to pay Rs.7,95,000/- with 9% per annum interest from the date of execution of sale deed i.e. from 07/07/2006 till realization of the amount, is under challenge in the present petition.

2. Learned counsel for the petitioner has opposed the impugned order passed by the National Consumer Disputes Redressal Commission, New Delhi, mainly on the following grounds :-

- a] The State Commission, Nagpur has no jurisdiction.
- b] The complaint was barred by limitation.
- c] The complainant cannot be treated as consumer.

3. In light of the objections, I have perused the record and the impugned orders. From the record, it is evident that the petitioner executed a sale deed with respect to Plot No.16, which was subsequently cancelled and another sale deed was executed on 07/07/2006 in respect of Plot No.36 admeasuring 1614 sq.ft. The petitioner also handed over the vacant possession.

4. Subsequently, the respondent No.1 sold out the said plot in favour of the respondent No.2 on 16/02/2013.

5. However, on receipt of notice issued by Sub-Divisional Officer, Yavatmal to respondent No.1 on 20/02/2015, the respondent No.1 got the knowledge

about the sale deed executed by the petitioner in respect of the plot in dispute i.e. Plot No.36 in favour of one Deepak Dighe on 12/06/2000.

6. Thereupon, it is the case of respondent No.1 that he returned back the amount received from the respondent No.2 towards the sale deed and filed complaint against the petitioner and the respondent No.2 before the State Consumer Disputes Redressal Commission, Circuit Bench at Nagpur.

7. As far as territorial jurisdiction is concerned, the petitioner is relying upon the Circular dated 10/02/2015 notifying the Circuit Bench at Amravati and submits that both the Courts below have committed error in holding that there is no Circuit Bench at Amravati, but it is a Camp and the jurisdiction lies with the State Consumer Disputes Redressal Commission, Circuit Bench at Nagpur.

8. The State Commission, Nagpur has categorically held that the Circuit Bench at Nagpur has territorial jurisdiction of Yavatmal District where the cause

of action arose for filing the complaint. It is further recorded that Amravati Bench was recently constituted Camp.

9. In the circumstances, I do not find merit as regards the territorial jurisdiction.

10. As far as point of limitation is concerned, the sale deed of respondent No.1 is dated 07/07/2006 and the complaint was filed on 14/03/2017 i.e. after 11 years. Whereas, the limitation is of two years.

11. However, the order passed by the Sub-Divisional Officer against the respondent No.1 on 18/09/2015 gave a cause to the respondent No.1 to file the complaint. Thus, both the Courts below have rightly held that the complaint is within limitation.

12. I do not find any error committed by both the Courts below while holding that the complaint was within limitation.

13. As regards the point raised by the petitioner that the respondent No.1 cannot be treated as consumer

for the reason that he sold the said plot in dispute to the respondent No.2, it has come on record that after getting knowledge about the sale deed dated 12/06/2000 executed by the petitioner in favour of one Shri Dighe, the respondent No.1 has returned back the amount to the respondent No.2.

14. Moreover, there was no transfer of title in favour of respondent No.2 in absence of any title in favour of respondent No.1, because of the sale deed dated 12/06/2000. Hence, in the peculiar facts and circumstances, it cannot be said that the respondent No.1 is not a consumer. Both the Courts below have categorically held that this is a case of cheating and the petitioner has cheated the respondent No.1.

15. In the circumstance as there is no merit in the present matter, it is dismissed.

[ANIL S. KILOR, J.]