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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 04th July, 2024***

+ CM(M) 2455/2024 & CM APPL. 25270-25271/2024

GHAZIABAD DEVELOPMENT AUTHORITYPetitioner

Through: Mr. Siddarth Sengar, Advocate.

versus

DURGA PRASAD

.....Respondent

Through: Respondent in person.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Respondent herein had filed a complaint before the concerned District Commission which passed order in favour of the respondent on 27.05.2022.
2. Feeling aggrieved, the petitioner herein i.e. Ghaziabad Development Authority, Ghaziabad challenged the above order before the concerned State Commission and even the State Commission dismissed its appeal vide order dated 26.08.2022.
3. Feeling aggrieved, the petitioner knocked the doors of National Consumer Disputes Redressal Commission (in short 'NCDRC') by filing Revision Petition No. 1718/2022 which has also been dismissed.
4. This is how petitioner-Authority is before this Court by invoking Article 227 of Constitution of India.
5. I have gone through the impugned order and it is noticed that the Hon'ble NCDRC has gone in requisite depth and noted the factual matrix while extracting the relevant portions of the order passed by the District Commission.



6. It was observed by Hon'ble NCDRC that the counsel for the Ghaziabad Development Authority had not been able to point out any 'jurisdictional error' in the impugned order.
7. According to petitioner, the complainant could not have been held to be a "consumer" because he had already taken possession of the property in question. Fact remains that such contention was rejected not only by the District Commission but also by the State Commission.
8. The petitioner however, tried to contend, all over again, before Hon'ble NCDRC about the aforesaid aspect which was negated by holding that the revisional jurisdiction conferred upon the Commission had its own limitation and the petitioner was required to show that the order impugned before it was either in excess of the Jurisdiction of the concerned Commission or where the fora below had abstained from exercising such Jurisdiction.
9. Reference be made to para 7 of the impugned order which reads as under:

"7. Learned counsel has once again tried to persuade the Bench to re-enter of the factual aspects of the case and re-appreciate the evidence It may be observed that the revisional jurisdiction conferred on this Commission has its own limitation and confines and has a limited ambit. The Order under challenge must be shown to have been passed either in excess of its jurisdiction or where the fora below may be said to have abstained from exercising its jurisdiction. Concurrent findings have been returned by the District Commission and the State Commission. The Orders of the two fora are a matter of record. No useful purpose will be served by reproducing them here all over again. Suffice is to say that the Bench finds that the Orders to be well appraised and well-reasoned. The Bench does not notice any jurisdictional error or material irregularity as may go to vitiate the findings. The Bench also does not find any reason to make fresh de novo re-appreciation of the evidence in revision. The Bench finds no good ground for interference in the exercise of the revisional jurisdiction of this Commission The Bench has not been able to come across any streak of perversity in the findings or discern any legal principle having been overlooked or wrongly ruled. Certainly the fora



below cannot be castigated either to have overstepped or transgressed their jurisdiction or to have omitted to exercise the same rightfully. The facts and circumstances appear to have been weighed and vetted well and to our satisfaction (Refer: Order dated 08.09.2022 of Hon'ble Supreme Court in Civil Appeal No. 5928 of 2022 Rajiv Shukla Vs. Gold Rush Sales and Services Ltd. & Anr. & Rubi (Chandra) Dutta Vs. United India Insurance Co. Ltd.(2011) 11 SCC 269)."

10. Needless to say, the scope and ambit of supervisory jurisdiction under Article 227 is much more restricted.

11. Moreover, even if the possession had been handed over to the respondent and a Sale Deed had also been executed, the grievance of the complainant cannot be said to be beyond the preview of the Consumer Protection Act as he categorically averred that the Authority had not provided any essential services. He claimed that neither the lift was working nor any fire-fighting system was working. He also mentioned about the poor condition of the stair-case, damaged hand rail, damaged sewer line, missing of boundary wall, to name a few. In these circumstances, the Authority cannot claim that merely because of the execution of Sale Deed, the respondent was no longer a consumer and that the complainant was, therefore, not competent to file any complaint.

12. Be that as it may, in view of my foregoing discussion, I do not find any merit and substance in the present petition. The same is dismissed.

(MANOJ JAIN)
JUDGE

JULY 04, 2024/sw