



**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CWP-19156-2025 (O&M)
Date of Decision:- 19.03.2026

Haryana Shehri Vikas Pradhikaran

... Petitioner

Versus

G.D.Gupta and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MRS. JUSTICE RAMESH KUMARI**

Present:- Mr. Arvind Seth, Advocate, for the petitioner.

GURVINDER SINGH GILL, J.

1. The petitioner, Haryana Shehri Vikas Pradhikaran, assails the following orders as passed by authorities under the Consumer Protection Act:
 - (i) Order dated 16-07-2008, passed by the District Consumer Disputes Redressal Forum, Karnal (Annexure P-20) vide which a complaint filed by respondent No.1 was accepted and the petitioner was directed to refund the extension fee charged from the complainant apart from awarding compensation for the escalation in cost of construction and



some damages. The District Forum also directed the petitioner to hand over the sanctioned site plan and also to execute a conveyance deed in respect of the plot in question which had been allotted by the petitioner to respondent No.1.

- (ii) Order dated 14-02-2023, passed by the National Consumer Disputes Redressal Commission, New Delhi (Annexure P-32), whereby the petitioner was proceeded against ex-parte.
- (iii) Order dated 13-04-2023, passed by the National Consumer Disputes Redressal Commission, New Delhi (Annexure P-33), whereby the National Commission while accepting revision petition filed by the complainant reversed the order passed by the State Consumer Disputes Redressal Commission, Haryana which had accepted an appeal filed by the petitioner against the order of the District Forum and had set aside the order of District Forum.
- (iv) Order dated 02-08-2024, passed by the National Consumer Disputes Redressal Commission, New Delhi (Annexure P-35), whereby an application filed by the petitioner seeking setting aside of orders dated 14-02-2023 and 13-04-2023 (Annexures P-32 and P-33) was dismissed, being time-barred, having been filed after 465 days.

2. A few facts necessary to notice for disposal of this petition are that respondent No.1 had applied for allotment of a plot which was allotted to him in the year 1979 by the petitioner and thereafter, the petitioner offered the possession of the same to respondent No.1 on 25-11-1982. However, as per the complainant, there was an acute problem of pollution and unhygienic



conditions on account of an old canal flowing nearby. In the year 1987, the petitioner demanded extension fee and enhanced land compensation from the complainant, which was challenged by respondent No.1 by way of filing a representation, which remained unanswered. However, subsequently respondent No.1 deposited the extension fee of Rs.10,750/- under protest. He also submitted another representation dated 03-10-1992, requesting the petitioner to approve his building plans, but to no avail. The petitioner thereafter approached the District Consumer Disputes Redressal Forum by way of filing a complaint which was disposed of vide order dated 17-02-1993, relegating respondent No.1 to arbitration in accordance with arbitration clause in the allotment letter.

3. Pursuant to a reference made by respondent No.1 to the Chief Administrator, HUDA, the Administrator was appointed unilaterally as an Arbitrator. The Arbitrator passed its award dated 09-07-2002 against the complainant/respondent No.1 and objections against the same as had been filed by respondent No.1 came to be dismissed in default by the Court of Additional District Judge vide order dated 01-06-2005 (Annexure P-14).
4. Subsequently, respondent No.1 again approached the District Consumer Disputes Redressal Forum, seeking waiver of extension fee and other sundry charges with respect to the period 1993 to 2001. The District Consumer Disputes Redressal Forum accepted the complaint vide order dated 16-07-2008 (Annexure P-20) while making the following observations:-

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.....
OP referred the matter to the arbitrator after a period of nine months



of the order dated 17.2.1993 and the arbitrator, who was the Administrator, HUDA, took almost 8-9 years to decide the matter for no fault of the complainant. The said arbitrator passed his award dated 9.7.2002 against the complainant holding that the basic amenities were complete in the area before 25.11.1982 i.e. before the date of offer of possession of the plot to the complainant and he was held liable to pay the extension fee and other charges. A perusal of the said award shows that the same has been passed in a cyclostyle manner and without the application of judicious mind despite having the knowledge of the fact that the project for remodeling of the old mugal canal was still under process and had not been completed by that time. It is an admitted fact that the said award dated 9.7.2002 has not been made rule of the court so far. Even after the said award the complainant being vigilant person had been approaching the civic authorities from 19.10.2006 to 27.7.2007 such as the State Pollution Control Board, Department of Public Information, District Medical Officer, PWD, CA HUDA etc. seeking information through his representation Ex.C12 to Ex.C23 and the information gathered by the complainant has been placed on record as Ex.C8 dated 20.8.2001, Ex.C9 dated 11.10.2001 to Ex.C11. A perusal of the documents Ex.C8 to Ex.23 shows that OP has not complied with the statutory provisions of law as envisaged under HUDA Act till date to control the pollution in the area through which old mugal canal was or is running.

5. OP, being a Govt. instrumentality, is required to develop the area by carrying out the same by itself or through any agency on its behalf, building engineering mining and other operations, to execute the works in connection with supply of water (treatment and disposal of sewage, sullage and storm water) control of pollution and any other services or amenities as it is statutory obligation and duty of OP to carry out works, operation to control the pollution as an essential and mandatory requirement as envisaged in Section 13 of HUDA Act under the head "Objects and functions of Authority". It is an admitted fact that an old nala known as old mugal canal runs through Karnal city and originally it was a source of irrigation during the Mugal



period but with the passage of time, it had turned into a duty serving as a mosquitoes breeding area and storm water of the town and the sullage of open drain is discharged into it and has become a big nuisance and health hazard for the residents of the town, which requires development of old mugal canal.....”

5. The District Consumer Disputes Redressal Forum, thus, issued the following directions:-

- “ (A) OP is directed to refund the amount of extension fee charged from the complainant from 17.2.1993 till the passing of award dated 9.7.2002 by the arbitrator.
- (B) The OP has admitted that it had already sanctioned the site plan in respect of the plot in question so OP is directed to hand over the sanctioned site plan to the complainant without charging any penalty from him and the period during which the complainant could not raise construction over the plot due to inaction, delay and laches on the part of OP shall be treated as zero period to enable the complainant to raise construction within the extended time.
- (C) OP shall compensate the complainant for the escalation in the construction cost as per the Haryana PWD Schedule of rates for building/market rates for the aforesaid period.
- (D) OP shall also execute the conveyance deed in respect of the plot in question in favour of the complainant by giving adjustment of the amount deposited by the complainant on account of extension fee from the year 1993 to 2002 towards the outstanding amount due towards the plot as per rules and regulations.
- (E) OP shall also pay Rs.5000/- to the complainant for causing delay and unnecessary mental agony and harassment to him.
- (F) The order shall be complied with within a period of 30 days of the receipt of copy of this order.”



6. The petitioner, aggrieved by the aforesaid award dated 16-07-2008 (Annexure P-20), preferred an appeal to the State Consumer Disputes Redressal Commission, Haryana, which was accepted vide order dated 15-02-2012 (Annexure P-23), and the order passed by the District Forum was reversed mainly on the premises that there was an arbitration clause in the agreement entered into between the parties and that the Arbitrator had returned the findings against the complainant and that a civil suit filed by complainant also stood dismissed.
7. Aggrieved by the aforesaid order of reversal passed by the State Consumer Disputes Redressal Commission, Haryana vide order dated 15-02-2012 (Annexure P-23) respondent No.1 filed a revision petition before the National Consumer Disputes Redressal Commission, New Delhi, wherein the petitioner was proceeded against ex-parte vide order dated 14-02-2023 (Annexure P-32). The National Consumer Disputes Redressal Commission vide order dated 13-04-2013 (Annexure P-33) noticed the entire record of the case, including factum of arbitration proceedings which were concluded in favour of the petitioner and also the factum of a civil suit filed by the petitioner having been dismissed but finally observed that the order as passed by the State Consumer Disputes Redressal Commission, Haryana could not sustain having been passed solely on account of factum of dismissal of civil suit filed by complainant/respondent No.1. The National Commission rather held that deficiency in service on the part of the petitioner was writ large and that there was inordinate delay in sanctioning the building plan. The relevant extract from the order passed by the



National Consumer Disputes Redressal Commission, New Delhi is reproduced herein under:-

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- 14. The petitioner's is that as per its own regulations, HUDA could not have handed over possession of the plot when land development was incomplete and the site was not habitable due to unhygienic conditions. For the reason he claims that he should have been granted an extension to comply with the regulations of HUDA of undertaking construction within the prescribed period of time. During the pendency of the Consumer Complaint before the District Forum he also deposited the requisite extension fee with the District Forum. Although the District Forum ordered in his favour, the State Commission, relying upon the award of the Arbitrator which was confirmed by the Additional District Judge, Karnal as also by the Civil Judge, Jr Division, Karnal in Civil Appeal 45 of 2005 filed by the petitioner, has set aside the order of the District Forum and allowed the appeal.
- 15. It is manifest that the petitioner has not been averse to the payment of the requisite extension fees but has taken the view that the plot allotted should be habitable in a hygienic environment. As a consumer, he cannot be faulted for such an expectation. As the *bonafide* Government agency responsible for ensuring the development of the area, respondent/HUDA should have ensured the same. For the delay in the arbitration by HUDA the petitioner cannot be held responsible. Deficiency in service by the respondent/ HUDA is therefore writ large in the inordinate delay caused in conveying building plan sanction.
- 16. The State Commission's order is essentially based upon the orders of the Civil Courts in favour of the respondent/HUDA. It has not addressed the issue of deficiency in service under the Act. The State Commission being the first Court of Appeal is the final Court of fact. A revision against its order lies under section 21 (b) of the Act before this Commission. The State Commission is required to consider the



contentions of the respective parties and arrive at a reasoned order setting out reasons. In the instant case, the impugned order has not brought out the reasons and is, therefore, liable to be set aside.

17. In view of the foregoing discussions, the revision petition is found to have merits and is accordingly allowed. The impugned order of the State Commission is set aside with no order as to costs.”

8. Thereafter the petitioner moved an application for setting aside order dated 14-02-2023 (Annexure P-32) vide which the petitioner had been proceeded against *ex parte* and also order dated 13-04-2024 passed by National Consumer Disputes Redressal Commission, New Delhi vide which the order passed by State Consumer Disputes Redressal Commission, Haryana had been reversed. However, the National Consumer Disputes Redressal Commission, New Delhi dismissed the said application being time barred as delay of 465 days in filing the application was not found to have been sufficiently explained.
9. Learned counsel for the petitioner while assailing the impugned orders submitted that the case as set up by the complainant that there was pollution in the area and there were unhygienic conditions cannot be accepted inasmuch as some other allottees had already raised construction in the area. It has further been submitted that in the absence of any cogent and convincing evidence regarding pollution, there was no case for accepting the complaint filed by respondent No.1 particularly when the award of the Arbitrator as well as the decision of the Civil Court is against respondent No.1.
10. We have considered the aforesaid submissions.



11. While we do not wish to comment in the present proceedings as regards the arbitration proceedings which were conducted by an Arbitrator appointed unilaterally inasmuch as the Chief Administrator HUDA appointed the Administrator HUDA as an Arbitrator. Any such award made by an Arbitrator cannot be treated to be a bar or impediment for approaching the District Forum, in case there is deficiency in service. In the present case the factum of existence of the Old Mugal Canal is not disputed. It is also borne out that remodeling of the Old Mugal Canal was still under process and had not been completed. The complainant had gathered information from the State Pollution Control Board, Department of Public Health as well as from the District Medical Officer, PWD and other authorities and the information so collected was duly placed on record as Ex.C-8 to C-23 which indicated that the needful for remodeling the Old Mugal Canal had not been done.
12. Under these circumstances, the findings as recorded by the District Consumer Disputes Redressal Forum, cannot be brushed aside simply by observing that an award passed by an Arbitrator was against the complainant when otherwise the facts clearly suggest that there has been deficiency in service inasmuch as the area in question cannot be said to have been made fully habitable, as is expected inasmuch as there were unhygienic conditions in the area. Certainly, a complainant even if having lost in the arbitration proceedings cannot be left high and dry if being a consumer there is deficiency of service on part of any agency being service provider.
13. In any case, the present case is a case where no such perversity in the impugned orders could be pointed out so as to warrant any interference in



the writ petition inasmuch as the scope of interference in writ jurisdiction so as to assail such orders would be very limited i.e. if there is some sheer perversity in the impugned orders or if there is some sheer misreading of evidence, which is not there in the instant case. The Hon'ble Supreme Court in M/s Garment Craft Vs. Prakash Chand Goel, AIR 2022 SC 422, while defining the scope of interference under Article 227 of the Constitution of India, held as under:

“18. Having heard the counsel for the parties, we are clearly of the view that the impugned order is contrary to law and cannot be sustained for several reasons, but primarily for deviation from the limited jurisdiction exercised by the High Court under Article 227 of the Constitution of India. The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal. The jurisdiction exercised is in the nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse, violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases, like when there is no evidence at all to justify, or the finding is so perverse that no reasonable person can possibly come to such a conclusion that the court or tribunal has come to. It is axiomatic that such discretionary relief must be exercised to ensure there is no miscarriage of justice.”

14. Examining the impugned orders in the light of ratio of law laid down in M/s Garment Craft's case (supra), we do not find any perversity or illegality in the impugned orders so as to warrant any interference in exercise of writ



jurisdiction. Finding no merit in the instant petition, the same is hereby dismissed.

(GURVINDER SINGH GILL)
JUDGE

19.03.2026
mohan

(RAMESH KUMARI)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No