

**IN THE NATIONAL CONSUMER DISPUTES REDRESSAL
COMMISSION AT NEW DELHI**

**RESERVED ON: 25.08.2025
PRONOUNCED ON: 15.10.2025**

FIRST APPEAL NO. 1127 OF 2018

(Against order dated 13.02.2018 in Complaint No. 878/2017 of
State Consumer Disputes Redressal Commission Punjab)

WITH

NC/IA/15025/2018 (Condonation of Delay)

NG/IA/1776/2025 (WITHDRAWAL)

NG/IA/11600/2018 (Placing Addl. Documents)

1. Greater Ludhiana Area
Development Authority (GLADA)
Office at Ferozpur Road,
Near Rajguru Nagar, Ludhiana
Through its Estate Officer.

2. Estate Officer,
Punjab Urban Planning and
Development Authority (PUDA)
Ludhiana.

3. Punjab Urban Planning and
Development Authority (PUDA)
PUDA Bhawan Sector-62, Mohali
Through its Chief Administrator.

... Appellant(s) /OP(s)

Versus

Rajwinder Kaur
D/o. Sh. Nidhan Singh
R/o. New Asha Puri,
Ludhiana, Punjab

... Respondent/ Complainant

BEFORE:

**HON'BLE AVM J RAJENDRA, AVSM VSM (Retd), PRESIDING MEMBER
HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA, MEMBER**

For the Appellants : Mr. Rahul Ranjan, Advocate for
Ms. Anusha Nagarjan, Advocate

For the Respondent : Mr. Sarwinder Goyal, Advocate (VC)

JUDGMENT

AVM Jonnalagadda Rajendra, AVSM VSM (Retd), Member

1. The present First Appeal has been filed against the Order dated 13.02.2018 passed by the State Consumer Disputes Redressal Commission, Punjab, (“the State Commission”), in CC No. 878 of 20017 wherein the Complaint was partly allowed.

2. For convenience, the parties in this case are being referred to as per their respective positions held in the Consumer Complaint.

3. Brief facts of the case, as per the complainant, are that the Appellants/ OPs floated a scheme for allotment of 601 residential plots at Sugar Mill Site, Jagraon. The Complainant applied and was allotted Plot No.100, measuring 400 sq. yds, for Rs.34,00,000 as the total consideration. She initially deposited 25% i.e. Rs. 8,50,000, and thus OP-1 issued an Allotment Letter dated 29.08.2015 in her favour. It is the case of the Complainant that at the time of deposit of the balance consideration, OP-2 assured her that development work would start shortly and possession would be handed over within 90 days, as per Clause 4 of the Allotment Letter. Relying on the same, she deposited the balance 75% i.e. Rs. 25,50,000 in lump sum, and was issued a “No Due Certificate” dated 05.09.2016. She alleged that despite full payment, possession was not handed over due to non-construction of the approach road. She asserted that OPs repeatedly assured her but failed to act, compelling her to seek refund of the deposited amount with 12% interest, which was not accepted. She further relied on the letter of OP-2 dated 05.09.2017, admitting that the construction of 100 ft. wide approach road required approval from NHAI and the Forest Department, which had not been obtained. She also alleged that as per RTI information received, the proposals for boundary wall, gate, sewerage connection etc were still pending, showing that the project

was incomplete. She further contended that the plot was originally allotted to one Sh. Sushil Kumar in 2013 and later transferred to her, with prior approval of OP-2. The Complainant sought refund of Rs. 34,00,000 with 12% interest, compensation of Rs. 1,00,000 for harassment and loss, and litigation costs of Rs. 33,000.

4. The OPs were proceeded ex parte vide order dated 07.12.2017 passed by the State Commission since written version on their behalf could not be placed on record for more than 30 days of service of notice. The State Commission vide final order dated 13.02.2018, allowed the complaint and directed the OPs as under: -

“Consequently, we accept complaint of the complainant and direct the OPs to refund the deposited amount of Rs.34,00,000/- to complainant with interest @ 12% p.a. under Rule 17 of the Punjab Apartment and Property Regulation ACT, 1995. We also award the compensation of Rs.50,000/- for mental harassment and Rs.25,000/- as costs of litigation in this complaint to the complainant.”

5. Aggrieved by the said order date 13.02.2018, the OPs have filed this Appeal seeking the following:

(i) Allow the present appeal and set aside the order and judgment dated 13.02.2018 passed by the State Consumer Disputes Redressal Commission, Punjab, Chandigarh in Complaint No. 878 of 2017 and or/

(ii) Pass any such and further order (s) which this Hon'ble Commission may deem fit and proper in the facts and circumstances of this case.

6. In the Appeal, the OP has mainly raised the following grounds:

A. The impugned order, being passed ex parte, is untenable in law.

B. The State Commission exceeded its jurisdiction under the Act, 1986, by granting relief as the Complainant had failed to establish any deficiency of service under the Allotment Letter, yet undue benefit was conferred at the cost of public funds.

C. Because possession of the plot stood deemed to have been delivered when the Complainant failed to take possession within 90 days of the Allotment Letter, nor applied for building plan approval or commenced construction and the plea of lack of connectivity with the National Highway was only an afterthought and unrelated to the delivery of possession.

D. The State Commission erred in not considering that all essential development works, including water supply and sewerage were completed by 30.09.2015, and further erred in holding the OPs responsible for highway access or construction of boundary wall, when no such obligation existed under the scheme or the contract.

E. The impugned order overlooked the binding terms of the Allotment Letter dated 29.08.2015, which constituted a concluded contract voluntarily accepted by the Complainant, and contrary relief could not have been granted.

F. There being no deficiency attributable to the OPs, the direction to refund Rs. 34,00,000 with interest @12% p.a., together with compensation and litigation costs, was unjustified and contrary to the settled principles of law.

7. In his arguments, the learned counsel for Appellants/OPs reiterated the grounds advanced in the Appeal and argued that the Complaint was based on incomplete information and that the State Commission had erred in proceeding solely on ex parte evidence, without affording OPs an opportunity to rebut allegations founded on cryptic RTI replies obtained by third parties. He argued that the project in question was fully developed as early as 2015, which stood certified by the Divisional Engineer of GLADA in respect of civil, public health, and electrical works. He emphasized that possession was duly offered as under the Allotment Letter, possession was deemed to have been

taken after the lapse of 90 days, even if the Complainant failed to appear. He argued that the Complainant had not even approached the OPs for formal possession and instead sought refund belatedly without just cause. With respect to the allegation of lack of connectivity, it was argued that the project was connected to the Link Road, and a proposal for a 100 ft. wide road had already been forwarded to NHAI. There was no statutory or contractual requirement for the Project to be directly connected to a National Highway. Similarly, the allegation of non-construction of a boundary wall and absence of sewerage connection was rebutted and it was argued that sewerage works were completed in 2015 and connected to the Sewage Treatment Plant, and that individual connections were to be provided only at the stage of occupation, once construction by the Complainant was completed. He further contended that the award of interest @ 12% per annum was arbitrary and excessive, particularly in absence of any evidence of financial loss, such as interest paid on loans or rent. He asserted that a government development authority like OP could not be equated with a private builder, since it functioned strictly in accordance with administrative, financial, and technical rules, subject to audit and Govt oversight. He relied on *Ravneet Singh Bagga v. KLM Royal Dutch Airlines* (2000)1SCC66; *Chief Administrator, Punjab Urban Developers Authority & Anr. vs. Manju Chauhan*, 2020 SCC Online NCDRC 55; *Sushma Buildtech Ltd. vs. Jagsukhbir & 3 Ors.*, (FA/468/2018); *Greater Mohali Area Development Authority vs. Nishan Singh*, (FA/889/2020); *DLF Homes Developers Ltd. vs. Capital Green Flat Buyer Assn*, (2021) 5 SCC 537; *Kolkata West International City Pvt. Ltd. v. Devasis Rudra*, CA No. 3182 of 2019; *Experion Developers (P) Ltd. v. Sushama Ashok Shiroor*, 2022SCCOnline 416; *DLF Homes Panchkula Pvt. Ltd. v. DS Dhanda & Ors* (2020) 16 SCC 318; and *Sewa Ram v. Estate Officer, HUDA*, RP No. 3033 of 2012, Order dated 12.01.2021.

8. On the other hand, the learned counsel for Respondent/ Complainant reiterated the facts of the case and argued that despite long lapse of time the OPs failed to offer possession due to non-development. Being a "State" under Article 12 of the Constitution, OP could not justify such deficiency, which prejudiced the Complainant and undermined public confidence in Govt agencies. He pointed out that under Clause 4 of the Letter of Allotment dated 29.08.2015, the OP was required to hand over possession of the plot within 90 days of issuance of the allotment letter, subject to payment of 25% of the tentative price. The total value of the plot was Rs. 34,00,000, out of which Rs. 8,50,000 being 25% was duly paid, and consequently OPs were obliged to deliver possession on or before 29.11.2015. However, despite lapse of several years, no possession was handed over. He stressed that the Complainant had even gone further to pay the balance 75% in lumpsum, whereupon the OPs themselves issued a "No Due Certificate" on 06.09.2016. Thus, nothing remained payable from the side of the Complainant. He urged that the OPs were liable to refund the entire amount with interest, besides compensation, litigation costs and return of transfer fee. He further rebutted the misleading plea of OPs that possession was "deemed" to have been delivered within 90 days of issuance of the allotment letter. He argued that Clause 4 of the Allotment Letter clearly cast the duty on OP to hand over possession within 90 days, and it was only after such delivery that the question of the allottee refusing to take possession could arise. The learned counsel further relied on RTI documents to show that no approvals were granted for a 100 ft. wide approach road and that there was no highway connectivity, boundary wall, or sewerage connection, facilities essential for development. It was argued that as possession was never offered, the OPs were not entitled to any relief. He opposed the OPs' attempt to place additional documents on record at the

appellate stage. He argued that no explanation was offered for non-production of such documents before the State Commission, showing lack of due diligence on OPs part. Further, the documents appeared to have been procured for a different matter in CC No. 883 of 2017, as specifically mentioned therein. Thus, such documents are not reliable and admissible in this case. He relied on the orders of NCDRC in **CC No. 8 of 2017 dated on 23.04.2019, 2019 (2) CPR 530** and **CC No. 398 of 2015 dated on 19.05.2016, 2016(3)CLT 36** and sought the appeal to be dismissed release of the deposited principal with interest in favour of the Complainant as per this Commission's order dated 24.07.2018.

9. We have examined the pleadings and associated documents placed on record and rendered thoughtful consideration to the arguments advanced by the learned Counsels of both the parties.

10. The preliminary issue for determination in the present case is whether closing of right to file written version and placing the Appellants ex-parte by the State Commission are legally sustainable?

11. In this regard, the OPs challenged the ex-parte order dated 13.02.2018 passed by the State Commission, contending that it was passed without their written statement being allowed and without affording them an opportunity to rebut the Complainant's claims. They argued that their submissions on appearance on 25.01.2018 should have allowed reconsideration of the order passed placing them ex-parte. The Complainant countered that the OPs deliberately failed to file written statement, resulting in ex-parte proceedings and that the State Commission rightly noted that although the OPs appeared on 25.01.2018, the matter was already scheduled for the Complainant's ex-parte evidence and reliance on such evidence was justified.

12. The records reveal that the instant complaint was instituted on 06.10.2017, admitted on 11.10.2017 and notice by registered post was issued to OPs on 25.10.2017. While no acknowledgment of delivery of notice was received back by the Registry, the written version was not filed by OPs as on 07.12.2017. The State Commission, therefore, deemed that the notice was served and proceeded by placing OPs ex parte vide order dated 07.12.2017. Careful examination of the facts and available records reveals that the notice with respect to the complaint was issued on 25.10.2017 by registered post. While no proof of service or acknowledgment service was received by State Commission, service to OPs was presumed evidently due to the mode of communication being by registered post. The learned State Commission considered that no written statement was filed by OPs as on 07.12.2017. It is intriguing to note that, 43 days lapsed as on that date i.e. 07.12.2017, from the date of issue of notice on 25.10.2017. These 43 days include the time for transit and delivery to OPs. Therefore, while there could be presumption of delivery of registered post, there could have been no presumption of date of delivery. Even then, the State Commission proceeded by placing OPs ex-parte vide order dated 07.12.2017 and denied scope to file written version. OPs challenged the said ex-parte order dated 07.12.2017 at their first appearance on 25.01.2018, contending that it was passed without their written version being taken on record and without affording them an opportunity to explain the date of receipt of notice, rebut the Complainant's claims and sought order to be reconsidered. The State Commission declined the same. It is undisputed that the proof of service is not available and the same was presumed, evidently being registered post. The ex parte order was immediately challenged by OPs at the first appearance thereafter. Further, OPs were denied

opportunity to explain the service of notice and defend themselves by filing written version and to file evidence.

13. In view of the aforesaid discussions, the denial to be heard with respect to service of notice, allowing the written version to be filed and placing OPs exparte on 07.12.2017 are evidently unsustainable being violative of principles of natural justice. The impugned order dated 13.02.2018 in Complaint No. 878/2017 passed by the learned State Commission is, therefore, set aside and the matter is remitted back to the State Commission for reconsideration of preliminary facts pertaining to the delivery of notice, consider affording the OPs an opportunity of being heard as to when the notice was received or OPs otherwise became aware of instant complaint and the date of filing written version, if any. After affording OPs an opportunity of being heard in this regard, the learned State Commission is directed to dispose of CC No.878 of 2017 afresh, preferably within a period of three months.

14. F.A. No.1127 of 2018 is disposed of with above directions.

15. All pending Applications, if any, are also disposed of accordingly.

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(AVM J. RAJENDRA, AVSM, VSM (RETD.)
PRESIDING MEMBER

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(ANOOP KUMAR MENDIRATTA, J.)
MEMBER

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