

**IN THE DELHI STATE CONSUMER DISPUTES
REDRESSAL COMMISSION**

Date of Institution: 06.05.2024

Date of Hearing: 15.12.2025

Date of Decision: 12.01.2026

FIRST APPEAL NO.-336/2024

IN THE MATTER OF

**MR. SHIV KUMAR GUPTA,
S/O LATE SH. K. P. GUPTA,
R/O 29/106, BHIKAM SINGH ROAD,
GALI NO. 10, VISHWAS NAGAR,
SHAHDARA, DELHI – 110032.**

**(Through: M. S. Rohilla &
Ms. Aditi Gupta Mahajan, Advocates)**

...Appellant

VERSUS

**PARSVNATH DEVELOPERS LTD.,
THROUGH ITS MANAGING DIRECTOR/DIRECTOR,
OFFICE AT PARSVANATH METRO TOWER,
SHAHDARA METRO STATION, SHAHDARA,
DELHI – 110032.**

(Through: Ms. Tanvi Garg, Advocate)

...Respondent

CORAM:**HON'BLE JUSTICE SANGITA DHINGRA SEHGAL (PRESIDENT)****HON'BLE BIMLA KUMARI, MEMBER (FEMALE)**

Present: Appellant in person along with Mr. Mayank Mahajan and Ms. Aditi Gupta, Counsel for the Appellant.
Mr. T. P. Chauhan and Ms. Tanvi Garg, Counsel for the Respondent.

PER: HON'BLE JUSTICE SANGITA DHINGRA SEHGAL, PRESIDENT**JUDGMENT**

1. The facts of the case as per the District Commission record are as under:

“1. Brief facts as stated by the complainant in the complaint are that on the invitation of the OP for pre-launching scheme of the residential plot in Parsvanath City, Sonipat, Haryana, one Rekha Gupta booked a residential plot measuring 300 sq. meters (without any specific number of plot) and paid an advance of Rs.1,57,500/- on 05.06.2014 but subsequently the said plot was transferred in favour of the complainant with the consent of OP and the complainant thereafter paid Rs.3,36,000/- on 21.12.2005 and allotment of priority number 797 was given in favour of the complainant in 2011 and thereafter various letters were written by the complainant but the possession of the plot was not given although it was assured every time when the complainant approached the OP. The complainant approached the OP on 15.12.2015, 11.02.2016, 06.06.2016 and then served a legal notice on 25.07.2016 but of no avail. However, the priority number from 797 came down to priority number 53 as per the information given by the authorised person of OP but plot was not handed over. The complainant then wrote various letter on 03.04.2018, 04.07.2018, 03.12.2018 which were all duly acknowledged by one Mr. Shalender Modi AR of the OP but nothing fruitful was done and then complainant served another legal notice upon OP 22.01.2019 but that was not replied. Aggrieved from all such deficiencies on the part of OP the complainant has filed the present complaint claiming that Op be directed to handover the possession of residential plot having priority number 53 at Parsvanath City of Sonipat Haryana along

with compensation of Rs.2,00,000/-, with interest @ 18% p.a. and Litigation Charges.

2. The OP filed written statement taking preliminary objection that the subject matter of the complainant is duly covered in the judgment of Hon'ble Supreme Court of India in Civil Appeal No.331/2007 in Ganeshlal Vs Shyam as the selling of mere plot of land is not covered within the definition of 'services' and therefore there is no deficiency in service as the complainant. Further, the OP had purchased the property from outside and was an investor who booked a property for commercial purpose and therefore complainant is not a consumer and this Commission does not have the jurisdiction and even otherwise the complainant has given an affidavit and undertaking/indemnity and as per such clause 7 of the said undertaking, it is specifically mentioned that the customer will accept refund of deposited money with the company along with simple interest @ 9% p.a. in case the plot is not allotted. Further, it is stated that the matter otherwise involves complicated question of law, being the matter is of civil nature and therefore the claim is not maintainable before the Commission.

3. As far as merits are concerned it is reiterated that complainant purchased a property for investment purpose from the open market however the fact that the complainant was duly enrolled as its customer by OP and OP received an amount of Rs.4,93,500/- from complainant is not disputed. The receipt of various letter including legal notice is denied and it is prayed that the claim of the complainant be dismissed.”

2. The District Commission after taking into consideration the material available on record passed the judgment dated **07.02.2024**, whereby it held as under:

“7. The OP is a builder who had to develop the residential plot in the township of Parsvanath City Sonipat Haryana had entered into an agreement with Smt. Rekha Gupta and received Rs.1,57,500/- and the said receipt thereafter was transferred in the name of complainant from whom the OP received Rs.3,36,000/- and, the priority came from 797 down to 53 are the admitted fact However no specific plot number was allotted by OP for this booking. The possession of Plot still has not been given is also not denied. However, various letters were received by OP from complainant are denied. The complainant otherwise

has filed all these letters written by him to the OP from time to time which were duly acknowledged and received by the OP and letters dated 15.12.2015, 11.02.2016, 06.06.2016, 04.07.2018, 03.04.2018 and 03.12.2018 all are having the stamp of the OP thereby acknowledging that the complainant had been writing various letters to them. It is admitted proposition of facts that possession of plot has not been given so far.

8. The basic contention of the OP is that the complainant purchased the property for investment purpose, the complainant is not a 'consumer' under CPA and further as mere plot of land is not covered under the "Consumer Protection Act" and in any case complainant has given a letter that in case if possession of plot is not given he will receive the amount back with 9% interest and therefore OP is not bound to give the possession of the plot to the complainant.

9. The complainant on the other hand has argued that it was not a mere plot which was to be handed over to the complainant rather it was a plot situated within the township to be developed by the OP and therefore all the amenities like Roads, Electricity, Water, Security, Safety and House Keeping etc. were to be provided by the OP in the said township and further although there was no written agreement entered into by the OP with Smt. Rekha Gupta or with the complainant yet they had duly received the amount for the purpose of developing the township plot and therefore they are the 'consumer' and above all the OP has not filed any evidence on record that the complainant has booked this plot for investment purpose.

10. No doubt there is no specific agreement on record but non supplying of the agreement by the OP itself amounts to deficiency in service as well as Unfair Trade Practice by the OP who after having received an amount of Rs.1,57,500/- +Rs.3,36,000/-Rs.4,93,500/- from the complainant, the OP was duty bound to enter into a formal agreement with the complainant so as to ensure that the developed plot would be handed over to the complainant as per the agreement within the scheduled period. Therefore, the deficiency on the part of OP is writ large on the face of it. The OP otherwise also has not been able to file any document by which it can be said that complainant purchased the property for investment purpose. This assumption of the OP is nothing but an attempt to mislead the Commission by writing irrelevant facts and therefore this contention of the OP is also not well found. However the

Commission has enquired from the counsel for the complainant that how and which number of the plot is being sought by him since there is no specific allotment of specific land / plot and since there is only a priority number of the pre-launch scheme as promulgated by the OP it cannot be ascertained as to which number of the plot would be ordered to be given to the complainant. Ld. counsel for complainant submitted that this is the only document with the complainant which was given by the OP and this itself is an unfair trade practice on the part of OP. Be that as it may, and even that it is unfair trade practice yet in the totality of circumstances, in the absence of any particular plot number to be handed over to the complainant after making the remaining payment to the OP is a relief which is not executable even if it is granted as the order w.r.t. specific plot number cannot be passed in absence of any pleadings. Therefore, this Commission is of the view that the OP has adopted unfair trade practice while initially calling and accepting the money from the prospective buyers of the plot (without specifying the plot number) and then has further indulged into unfair trade practice in not converting the priority number to a specific plot number with the intention to use the public money at large and this is happening right from 2005 i.e. when the complainant purchased the property from the original buyer Smt. Rekha Gupta which was duly endorsed to the complainant and even OP had received the money from the complainant thereafter and accordingly OP is deficient in providing the services to the complainant. Above all it is also observed by the Commission that OP is not only converting the priority number into plot number at its whims and fancies but also is not returning the amount to the complainant and above all is trying to justify with intention to cheat the money of the complainant without any reason. Therefore, the highhandedness apart from unfair trade practice and deficiency in services against OP is writ large. As far as the contention of OP that complainant has given in writing that he would receive the money back with interest @ 9% p.a. further establishes that the complainant was a consumer of the OP and getting of such letter written in the form of indemnity is another example of unfair trade practice on the part of OP. It has to be understood that in absence of any agreement (BBA) entered, into between the parties, under which provision such letter was got written by the OP from the complainant. Therefore, the letter also is another aspect, to reach at conclusion that OP

is unfair in its activities to achieve unlawful benefits. Therefore the Commission is of the opinion that complainant has been able to prove deficiency on the part of OP and therefore the Commission hereby orders as follows:

- OP would return an amount of Rs.1,57,500/- Rs.3,36,000/- = Rs.4,93,500/- to the complainant with interest @ 12% from the date of deposit and would also pay compensation of Rs.40,000/- including litigation charges to the complainant.

This order be complied with within 30 days from the date of receipt of the order and if not complied with then OP would pay interest @ 15% p.a. on all above amounts till realization.”

3. Aggrieved by the aforesaid order of the District Commission, the Appellant/Complainant has preferred the present appeal on the ground that the District Commission has failed to consider that the Appellant never prayed for the refund of the amount paid by him to the Respondent. The Appellant further submitted that the District Commission has failed to appreciate that awarding the refund of the amount with interest @ 12% per annum, is not a substitute and an alternative to the main grievance of non-allotment of plot to the Appellant. Pressing the aforesaid, the counsel for the Appellant prayed for setting aside the impugned order passed by the District Commission.
4. The Respondent, on the other hand has filed the reply to the present Appeal whereby denying all the submissions of the Appellant and submitted that the Appellant himself admitted the terms and conditions of the Advance Registration Form whereby it is specifically agreed by the Appellant that in case the Respondent failed to allot the plot to the Appellant, the Appellant shall accept the refund of the deposited amount. Pressing the aforesaid, the Respondent prayed for the dismissal of the present Appeal.
5. The written submissions have also been filed by the Appellant and the Respondent and the same has been duly considered by this Commission at the time of final arguments.

6. We have perused the material available on record and heard the counsel appearing on behalf of the Appellant and Respondent.
7. The *main question* that falls for our consideration is *whether the District Commission erred in directing the Respondent to refund the amount paid by the Appellant by holding the deficiency of service on the part of the Respondent.*
8. A perusal of record reflects that the present case pertains to the grievance of the Appellant arising out of a pre-launch scheme floated by the Respondent for residential plots at Parsvanath City, Sonipat, Haryana. Initially, a residential plot measuring 300 sq. meters was booked by one Rekha Gupta upon payment of an advance amount, which was later transferred in favour of the Appellant with the consent of the Respondent. The Appellant thereafter made further payments and was allotted priority number 797, which subsequently improved to priority number 53. Despite repeated assurances, several personal visits, written representations, and issuance of legal notices by the Appellant, the possession of the plot was never handed over by the Respondent.
9. Further, on perusal of record, we find that the Appellant at the time of making the advance payment has signed the Advance Registration Form whereby it is agreed that in case the Respondent failed to allot the plot to the Appellant, the Appellant shall accept the refund along with interest. Moreover, the District Commission has rightly held the deficiency of service on part of the Respondent and reasonably awarded compensation to the Appellant.
10. In view of the forgoing, we are in agreement with the reasons given by the District Commission and fail to find any cause or reason to reverse the findings of the District Commission. *Consequently, we uphold the order dated 07.02.2024 passed by the District Consumer Disputes Redressal*

*Commission, (East), Govt. of NCT of Delhi, Convenient Shopping Centre,
First Floor, Saini Enclave, Delhi – 92.*

11. *Consequently, the present Appeal stands dismissed with no order as to costs.*
12. Application(s) pending, if any, stands disposed of in terms of the aforesaid judgment.
13. The judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.
14. File be consigned to record room along with a copy of this Judgment.

**(JUSTICE SANGITA DHINGRA SEHGAL)
PRESIDENT**

**(BIMLA KUMARI)
MEMBER (FEMALE)**

**Pronounced On:
12.01.2026**

LR-AJ