

**BEFORE THE TELANGANA STATE CONSUMER DISPUTES
REDRESSAL COMMISSION : HYDERABAD.**

**F.A.No. 381 OF 2020
AGAINST ORDERS IN C.C.240/2017
DISTRICT CONSUMER COMMISSION-III, HYDERABAD**

Between:

M/s Narne Estates Pvt., Ltd.,
Represented by its Chairman and Managing Director,
Col. Ranga Rao Narne (Retd.), S/o Late N.V.Naidu,
Aged about 76 years, Occupation : Business,
Office at 1 Gunrock Enclave, Secunderabad,
Telangana 500 009.

.....Appellant/ Opposite Party

And:

Shri Mohd. Adbul Rahim, S/o Late Mohd. Mahabub Ahmed,
Aged about 45 years, R/o Villa No.9, Bloomdale, Modi Properties,
Shamirpet, Hyderabad, Telangana 500 101.

.....Respondent/ Complainant

Counsel for the Appellant/Opposite Party : Sri Katepalli Sai
Sashi Yadav

Counsel for the Respondent/ Complainant : Sri M.Surya Prakash

QUORUM :

**HON'BLE SRI V.V.SESHUBABU, MEMBER – JUDICIAL
&
HON'BLE SRI K.RANGA RAO, MEMBER – JUDICIAL**

**THURSDAY, THE 21ST DAY OF NOVEMBER
TWO THOUSAND TWENTY FOUR**

Order : (PER HON'BLE SRI. V.V.SESHUBABU, MEMBER – JUDICIAL)

1. The appeal is filed u/s 15 of Consumer Protection Act, 1986 by the Opposite Party, aggrieved by the order of District Consumer Commission-III. Hyderabad, dated 26.07.2019 in CC 240/2017, where under the opposite party is directed to issue “No due certificate”, relating to plot No.’s 25 & 26 of Block-N, Sector IV in East City Venture and further directed not to interfere with the rights of the complainant in enjoying the same and further directed to pay compensation of Rs.5,00,000/-, besides costs of Rs.10,000/- within 30 days, failing which, complainant is entitled for the interest @ 7% p.a., till realization.

2. The brief averments of the complaint are that the opposite party commenced venture at B.B.Nagar, under the name and style of "Narne Estates, East City" for the sale of plots; that Dr. Meenu Lelani, became member and she booked purchased the Plot No.'s 39 & 40 and on receiving the entire amount, registered sale deeds were executed in her name on 21.01.1999; in respect of plots 25 & 26; that the opposite party also refunded Rs.2,500/- to her towards excess amount received by it; that in the year 2007, the complainant purchased plots from Dr.Meenu Lelani, by paying full consideration; that the complainant requested the opposite party to change of membership in his name vide letter, dated 12.11.2007, for which the opposite party replied claiming Rs.50,000/- and subsequently stated that outstandings to the account of Dr.Meenu Lelani was Rs.75,400/- that subsequently it was enhanced Rs.1,07,620/- and ultimately it was enhanced to Rs.2,54,481/-; that the complainant objected for the same and ultimately on 21.11.2015, the opposite party claimed the dues at Rs.28,200/-, maintenance charges at Rs.13,950/- and with interest, total payable amount was shown at Rs.46,239/- with a demand to pay the same within 30 days. The complainant refused to pay the same and got issued legal notice, dated 30.03.2017 by stating as he is residing at Hyderabad, can look after the maintenance of the plot and there is no necessity for opposite party to extend any help in that regard and that despite notice, no reply was given, hence, the complaint.

3. The brief averments of the written version of Opposite Party are that the complaint is not maintainable either on facts or under law; that the complainant is put to strict proof of the averments in the complaint, except those that are admitted; that the complainant approached the Commission, by suppressing material facts and despite having knowledge about over dues in the account of Dr.Meenu Lelani and even agreed to pay the same, but went back on the promise and filed the complaint to make wrongful gain. The complainant sent emails, dated 24.01.2016 and

01.12.2016, agreeing to pay the dues but failed to pay; that the complainant is not eligible for any claims as made in the complaint. With this, requested to dismiss the complaint with exemplary costs.

4. Before the Commission below, complainant filed evidence affidavit as PW1 and marked Ex: A1 to A22 and also filed additional evidence affidavit. One Sri Col. Ranga Rao Narne (Retd.,) Managing Director of opposite party, filed evidence affidavit as RW1 and got marked Ex.B1 to B65. Written arguments are filed for the complainant and also for the opposite party.

5. The Commission below, settled the following points for discussion viz...:

- **Whether there is deficiency of the service on the part of Opposite Party as claimed by the complainant?**
- **Whether the complaint is hit by principle of non-joinder of parties?**
- **Whether the complainant is entitled for a direction to the opposite party to withdraw the demands claiming amounts in respect of plot bearing No.'s 25 & 26 of the complainant as prayed for?**
- **Whether the complainant is entitled for unhindered access to his plots for carrying out construction activity etc.?**
- **Whether the complainant is entitled for an order restraining the opposite party from coercing, harassing and threatening the complainant?**
- **Whether the complainant is entitled for a declaration that levying of maintenance on the plots of the complainant is illegal?**
- **Whether the complainant is entitled for compensation of Rs.5,00,000/- and costs as prayed for?**
- **To what relief?**

6. Having heard both sides, the Commission below basing on the material available on record, passed the order as stated supra. Aggrieved by the same, the present appeal is filed by the opposite party with the following grounds:

- The order of the Commission below is contrary to law, weight of evidence and probabilities of the case.

- The Commission below failed to observe that having purchased plots from original member Dr.Meemu Lelani, the transactions are concluded, as such cannot be any deficiency of service on the part of the opposite party.
- The Commission below failed to observe that there are dues payable by Dr.Meenu Lelani and the complainant agreed to clear the dues.
- The Commission below wrongly appreciated that there are no dues in the account of Dr.Meenu Lelani, as such the complainant is not liable to pay anything.
- The Commission below failed to appreciate the case law relied upon by the opposite parties.

With these grounds and others that will be urged at the time of arguments requested to set aside the order of the Commission below and to allow the appeal.

7. Now the points for determination in the appeal are :

- (1) Whether Dr.Meenu Lelani, had any over dues in her account, payable to the opposite party?**
- (2) Whether there is “No due certificate” on the part of the opposite party?**
- (3) Whether the impugned order is sustainable under law?**
- (4) Relief?**

8. Heard the arguments of the appellant only and arguments of the respondent are treated as heard. For the sake of the convenience the parties will be addressed as they arrayed in the impugned order.

9. **POINTS 1 to 4:** There is no dispute about Dr. Meenu Lelani, becoming the member in the opposite party Company to purchase the plots and the sale of those plots in favour of PW1 for valid consideration. PW1 heavily relied upon Ex.A4, dated 04.06.1980 which shows that RW1 refunded Rs.2,500/- to Dr. Meenu Lelani, as the amount received is in excess from her. With the help of said document, it is argued that in case, there are any

over dues in the account of Dr.Meenu Lelani, RW1 should not have refunded Rs.2,500/- and on the other hand, he should have adjusted the amount towards over dues. It is the further contention of PW1 that, to his knowledge there are no over dues at all in the account of Dr.Meenu Lelani, as such he need not pay anything.

10. The above version of PW1 was shattered by opposite party with the help of his documents. Ex.B32 goes to show that husband of Dr. Meenu Lelani on 14.06.2004 requested RW1 to inform the present value of the plot No.'s 25 & 26 as they intended to sell the same. Ex.B33 shows that RW1 requested Dr.Meenu Lelani to wait some more time. However, under Ex.B37, the husband of Dr.Meenu Lelani requested to sell the plots at the rate of Rs.500/- per sq. yard, including development charges. Under Ex.B38, RW1 expressed intention to repurchase the plots from her, for which she agreed to sell. Somehow, without informing RW1, she sold away the plots in favour of PW1. Ex.B40, dated 12.07.2007, goes to show that RW1 informed Dr.Meenu Lelani, to pay the balance amount of Rs.75,400/-, besides maintenance charges of Rs.4,800/-. It shows Dr.Meenu Lelani is having knowledge that she has to pay the above amounts.

11. Under Ex.B41, dated 12.11.2017, PW1 informed about the purchase of the plots from Dr.Meenu Lelani and given his address for correspondence. Ex.B43 goes to show that RW1 requested PW1 to pay Rs.50,000/- towards transfer fee @ of Rs.100/- per sq. yard, apart from Rs.75,400/- outstanding in the account of Dr. Meenu Lelani to transfer his name in the records. Ex.B48 goes to show that PW1 requested RW1 to purchase plot for Rs.1,67,400/-, after deducting development charges and annual maintenance charges from Rs.2,60,000/- i.e. cost of the plot. So, PW1 cannot deny that he has no knowledge about the outstandings in the account of Dr.Meenu Lelani, vide Ex.B51, RW1 informed PW1 that he is liable to pay Rs.1,07,620/-, which was increased from time to time and ultimately, Rs.2,67,943/- as

per Ex.B59. However, under Ex.B60, dated 21.11.2015, RW1 in total agreed to receive Rs.46,239/- instead of several claims made previously. As per Ex.B63, a special offer was given to PW1 to pay Rs.37,030/- as on 24.11.2016 by enclosing the statement under Ex.B64 and B65. Suppressing all these facts, the complaint is filed. The Commission below not at all considered these documents. Therefore, we are of the view that there is every necessity to allow the appeal, ofcourse, with modifications.

12. In the result, the appeal is partly allowed without costs, by setting aside the order dated 26.07.2019 in CC 240/2017, District Consumer Commission-III. Hyderabad, in total with modifications that, on payments of Rs.37,030/- with interest at 8% per annum from 24.11.2016 till date of actual payment by the complainant. The opposite party is directed to issue "No due certificate" and transfer the name of PW1 in their records as the owner of Plot No.'s 25 & 26 in place of Dr.Meenu Lelani.

The Appellant/opposite party is permitted to withdraw the statutory deposit along with accrued interest, after lapse of revision time.

Dictated to Stenographer, transcribed & typed by her; corrected by me and pronounced by us in the Open Court on this the 21st day of November' 2024.

Sd/-

Sd/-

MEMBER-JUDICIAL

MEMBER- JUDICIAL

Dated : 21.11.2024

*AD