

Date of Filing: 13.02.2023  
Date of Order: 06.10.2023

**BEFORE THE BANGALORE I ADDITIONAL DISTRICT  
CONSUMER DISPUTES REDRESSAL COMMISSION  
SHANTHINAGAR BANGALORE - 27.**

**CONSUMER COMPLAINT NO.48/2023**

**DATED ON THIS THE 06<sup>TH</sup> OCTOBER 2023**

**PRESENT**

**Sri.B. Narayanappa, M.A., LL.B. - PRESIDENT**

**Smt.Jyothi N, B.A, LL.B. L.L.M. MEMBER**

**Smt.Sharavathi S.M, B.A, LL.B., MEMBER**

**COMPLAINANT :**

Sri.C.Achuth,  
s/o.Sri.J Chandrashekar,  
Aged about 38 Years,  
Residing at No.146/A, 6<sup>th</sup> Cross,  
3<sup>rd</sup> Main, SFS 4<sup>th</sup> Phase,  
Yelahanka New Town,  
Bengaluru-560064.

Adv: Sri.M.Sreekantaiah

**Vs**

**OPPOSITE PARTY/S:**

- 1 The Secretary/Chief Executive Officer,  
State Government SC/ST Backward  
& Minority Employees House  
Building Co-operative Society Ltd.,  
No.8/3, 1<sup>st</sup> Floor, Nagappa Road,  
Sheshadripuram,  
Bengaluru-560020.

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Now Shifted to No.5/1,  
Shambulingeshwara Temple Street,  
Cholanayakanahalli, R.T.Nagar,  
Near Hebbal Sub-Registrar Office,  
Bengaluru-560032.

- 2** The President  
State Government SC/ST Backward  
& Minority Employees House  
Building Co-operative Society Ltd.,  
No.8/3, 1<sup>st</sup> Floor, Nagappa Road,  
Sheshadripuram,  
Bengaluru-560020.

Now Shifted to No.5/1,  
Shambulingeshwara Temple Street,  
Cholanayakanahalli, R.T.Nagar,  
Near Hebbal Sub-Registrar Office,  
Bengaluru-560032.

- 3** The Vice-President  
State Government SC/ST Backward  
& Minority Employees House  
Building Co-operative Society Ltd.,  
No.8/3, 1<sup>st</sup> Floor, Nagappa Road,  
Sheshadripuram,  
Bengaluru-560020.

Now Shifted to No.5/1,  
Shambulingeshwara Temple Street,  
Cholanayakanahalli, R.T.Nagar,  
Near Hebbal Sub-Registrar Office,  
Bengaluru-560032.

Exparte

<b>Nature of complaint</b>	<b>Deficiency in service</b>
<b>Date of filing of complaint</b>	<b>13.02.2023</b>

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<b>Date of Issue of Notice</b>	<b>27.02.2023</b>
<b>Date of Order</b>	<b>06.10.2023</b>
<b>Duration of Proceeding</b>	<b>07 Months 24 Days</b>

**ORDERS PASSED BY SMT.SHARAVATHI.S.M, MEMBER**

1. The complainant Mr.C.Achuth, resident of Bangalore has filed this complaint U/s.35 of the Consumer Protection Act, 2019 against the OP Represented by its Secretary/Chief Executive, President, & Vice President of State Government SC ST Backward & Minority Employees Housing Building co-operative Ltd., Bangalore praying to direct the OP to allot and register a residential site with free encumbrance by providing other civic amenities in the said layout or in the alternative to direct OPs to refund the entire sital deposit amount of Rs.10,60,000/- with interest at 18%p.a. from the date of deposits till realization and to pay compensation Rs.1,00,000/- towards deficiency in service and Rs.50,000/- towards mental agony and harassment and cost of litigation of Rs.50,000/- and grant such other reliefs as this Commission deems fit to grant under the facts and circumstances of this case.

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**2. The brief facts are that:-**

The OP No.1 is a Co-operative Society registered under the provisions of KCS Act Rules. OP No.2 & 3 are elected President and Vice President of OP No.1 Society. The complainant become member of OP No.1 society vide membership No.AM-143 and OP No.1 society has issued Identification Card and has also issued share certificate by receiving share amount of Rs.1,000/- by the complainant on 30.09.2013.

The complainant being a member of OP No.1 Society has applied for a site and remitted a sum of Rs.10,60,000/- to the OP No.1 society on different dates through cheques which were all duly acknowledged and encashed, seeking for allotment of site measuring 30x40 proposed to be formed at Bhavikere Village at Sy.No.33/2, 35/1, 35/2 and 36/2, Venkatappa Enclave, Kasaba Hobli, Nelamangala Taluk, Bengaluru. Even though the complainant has approached the OPs several times and requested to allot and register a site and hand over the vacant possession of site measuring 30x40 in the name of complainant, but the OPs keep on postponing the same

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by one pretext or the other by giving evasive replies to the complainant. Even after waiting for more than nine years the OPs have failed to allot and register a residential site and also to execute the absolute sale deed in favour of the complainant or to refund the amount paid by the complainant. Therefore, the complainant got issued legal notice dated 28.12.2022 seeking the OPs to allot and register a site or to refund the sital deposit of Rs.10,60,000/- with interest. In spite of receipt of legal notice OPs neither replied the notice nor complied the demands made therein. Therefore, it is alleged deficiency in service on the part of OPs. Hence, this complaint.

3. After registration of this complaint, notices were ordered to be issued to OPs. In spite of service of notice upon OPs, OPs doesn't turn up. Hence, OP No.1 to 3 were placed, ex parte.

4. The complainant has filed his affidavit by way of examination in chief, the same was taken as PW-1 and got marked Ex.P-1 to Ex.P-9. Heard the arguments of complainant counsel.

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5. The point that would arise for our consideration are as under:-

**1. Whether the complainant proves that the alleged deficiency in service on the part of the OPs and thereby he is entitled to the reliefs as sought for?**

**2. What order?**

6. Our finding on the aforesaid points are as follows:

***Point No.1: Partly in affirmative.***

***Point No.2: As per final order for the following***

**::REASONS::**

7. **Point No.1**:- Perused the complaint, affidavit evidence and documents produced by the complainant. It is clear that OP No.1 is a Co-operative Society registered under the provisions of KCS Act & Rules. OP No.2 & 3 are elected President and Vice President of OP No.1 Society. The complainant become member of OP No.1 society vide membership No.AM-143 and the complainant got marked Ex.P-1 Identification Card issued by OP No.1 society. The complainant got

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marked Ex.P-2 the copy of share certificate issued by OP by receiving share amount of Rs.1,000/- from the complainant on 30.09.2013. The main object of OP No.1 society is to acquire lands, form layouts and to allot sites to its members. The complainant has applied for site measuring 30x40 in the layout proposed to be formed at Bhavikere Village at Sy.No.33/2, 35/1, 35/2 and 36/2, Venkatappa Enclave, Kasaba Hobli, Nelamangala Taluk, Bengaluru and complainant made payment through cheque for Rs.2,00,000/- on 30.09.2013, Rs.80,000/- on 05.08.2014, Rs.1,10,000/- on 28.10.2015, Rs.3,90,000/- on 10.10.2016, Rs.2,00,000/- on 22.06.2017 & Rs.80,000/- on 17.01.2019 totally Rs.10,60,000/- to OP No.1 society towards full sital value which reflects from the receipt issued by OP No.1 society as per Ex.P-3 to Ex.P-8.

8. Thereafter, the complainant came to know that the OPs have failed to obtain necessary sanction from the government department and failed to develop the layout and formation of sites thereon. The OPs have dodged the execution of sale deed in favour of the

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complainant on one or the other reason, inspite of repeated request and demands. Even after lapse of 9 years, OPs have not shown any interest to execute the sale deed in favour of complainant, despite issuance of legal notice dated 28.12.2022 requesting the OPs to allot and register a site with free encumbrance in favour of complainant or otherwise refund the entire sital value paid by him as per Ex.P-9. The said amount remained with the OPs, whatever be the reason for delay in acquiring lands, forming the sites and allotting to its members, it is the bounden duty of the OPs to adhere to the timeline which it has promised to its members. All these facts and complaint allegations is to be held as a proved fact in the absence of any defence from the OP society. The OP society has not chosen to appear and to contest the complaint. In absence of any defence in the complaint, the commission is forced to draw an adverse inference as against OP and in favour of complainant that the entire complaint allegations as against the OPs are to be considered as proved fact.

9. From the contention taken by complainant and the pleadings of the complaint, it is crystal clear that the

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OPs have failed to develop the layout and to allot the site and to execute sale deed in favour of the complainant. The delay in formation of the layout and to allot site and to execute registered sale deed in favour of the complainant and non-refund of the amount paid by the complainant from the OPs which itself is nothing but deficiency in service on the part of OPs. Therefore, we are of the considered view that the complainant has successfully proved the alleged deficiency in service on the part of the OPs. Hence, we answer **Point No.1 Partly in Affirmative.**

10. **Point No.2:-** For the aforesaid reasons, We proceed to pass the following:

**:: ORDER ::**

1. **The complaint of the complainant is hereby allowed in part.**
2. **OP No.1 to 3 are hereby directed to allot and execute sale deed in favour of the complainant in respect of site measuring 30x40 in the proposed layout to be formed by OP society at Bhavikere Village at Sy.No.33/2, 35/1, 35/2 and 36/2, Venkatappa Enclave, Kasaba Hobli, Nelamangala Taluk, Bangalore by receiving the registration cost and balance sale consideration amount if any and other incidental charges from the complainant**

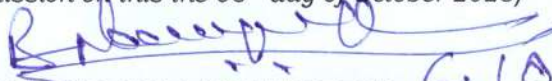
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**within three months from the date of this order.**

- 3. In the alternative if no sites are available in the aforementioned layout formed by OPs, the OPs shall refund Rs.10,60,000/-, the entire sital value paid by the complainant with interest at 12%p.a. from the date of receipt of payment till realization within three months from the date of this order.**
- 4. Further OPs are directed to pay compensation of Rs.50,000/- towards deficiency in service caused to the complainant and cost of litigation of Rs.5,000/- within three months from the date of this order, failing which the said amount carries interest at 12%p.a. till payment.**
- 5. Furnish the copy of order to both parties free of cost.**

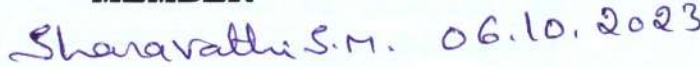
*(Dictated to the Stenographer transcribed, typed by her, corrected by us and then pronounced in Open Commission on this the 06<sup>th</sup> day of October 2023)*

  
**(SRI. B NARAYANAPPA)** 6.10.2023

**PRESIDENT)**

  
**(SMT. JYOTHI.N)** 6/10/2023

**MEMBER**

  
**(SMT. SHARAVATHI.S.M)** 06.10.2023  
**MEMBER**