

(1996) 04 NCDRC CK 0053

In the National Consumer Disputes Redressal Commission

ASSISTANT ENGINEER P.H. And E DEPTT.

APPELLANT

Vs

Goverdhan Lal

RESPONDENT

Date of Decision : 18-04-1996

Acts Referred:

Citation : 1997 2 CPJ 399

Hon'ble Judges : N.C.Sharma , Subhash Purohit , Firoza Bano J.

Final Decision : Order set aside

Judgement

1. THIS order will decide Appeal No. 373/94 and Revision No. 19/94 filed by the opposite party. The complainant had filed a complaint before the District Forum, Chittorgarh alleging that the water connection at his house in Kapasan was wrongly disconnected on 31.5.93. The complainant claimed compensation amounting to Rs. 50,000/- from the opposite party on account of wrongful disconnection of the water supply. The opposite party pleaded in their version that the water connection was given to the complainant for domestic purposes, but he was using the connection for public purposes. It was also pleaded that the complainant has filed a Civil Suit in which he obtained a temporary injunction on 6.8.1993. The Civil Court has directed in the temporary injunction order to the opposite party to restore the water connection within one month. The water connection was restored on 6.9.1993. The District Forum Chittorgarh has awarded Rs. 1,900/- as compensation to the complainant and Rs. 100/- as costs, on account of the loss suffered by the complainant during the period from 1.6.1993 to 6.9.1993, during which the water connection remained disconnected. Aggrieved by this order, the opposite party has filed this appeal.

2. THE appeal is reported to be barred by limitation by 113 days. An application for condonation of delay has been filed wherein it has been stated that the delay took place due to administrative reasons regarding obtaining opinion with regard to the filing of the appeal and sanction for filing the same. It is true that undue administrative delay was done by the opposite party in taking administrative decision for filing the appeal. Such gross delay of 113 days cannot be condoned

as administrative delay. However, it is a fit case in which we should exercise our revisional power. As already flated, it is an admitted position in the case that the complainant has filed a Civil Suit for injunction against the opposite party alleging wrongful disconnection of the water supply from 1.6 1993 and that Civil Suit is still pending. In that suit the complainant had obtained a temporary injunction on 6.8.1993 in mandatory form directing the opposite party to restore the water connection. THE District Forum has awarded compensation to the complainant for the period the water connection remained disconnected. THE Civil Suit has not been so far decided. When the complainant already filed a Civil Suit in which the matter was in issue whether the water connection of the complainant was disconnected wrongly or not and the Civil Suit is still pending before the Civil Court, the District Forum could not award compensation to the complainant on account of the mandatory form the temporary injunction issued and the water connection was restored. As the entire dispute is before the Civil Court, the complainant should have pursued his remedy in that Court alongwith the remedy of compensation. We, therefore, exercising our revisional power set aside the order of the District Forum and allow the complainant to pursue his remedy in the Civil Court even by amending the plaint in the Civil Court and claiming compensation for alleged disconnection. In view of allowing of this appeal, the revision petition No. 19/94 also deserves to be allowed as it is against the order under Section 27 of the Consumer Protection Act, 1986. Revision No. 19/94 is also allowed and the order of the District Forum, Chittorgarh dated 8.6.1994 is set aside. The amount if any deposited by the opposite party-petitioner in the District Forum will be refunded to the petitioner. Order set aside. _____