
(2009) 02 NCDRC CK 0056

In the National Consumer Disputes Redressal Commission

BAL KISHAN

APPELLANT

Vs

Om Prakash

RESPONDENT

Date of Decision : 19-02-2009

Acts Referred:

Citation : 2009 0 NCDRC 25 : 2009 2 CPJ 13 : 2009 2 UC 860

Hon'ble Judges : Ashok Bhan , B.K.Taimni J.

Final Decision : Petition dismiss

Judgement

1. PETITIONER herein who was the Opposite Party before the District Consumer Disputes Redressal Forum, Sirsa (hereinafter referred to as the District Forum for short) has filed the present Revision Petition.

2. BAL Kishan and Sohan Lal, sons of Puran Chand, owned land measuring 17 acres in Village Rangrikhera Tehsil Sirsa, Haryana, out of which 11.5 acres of land was given by them to Gulzari Lal, father of the complainant/respondent-Om Prakash on lease for a period of one year on payment of Rs.1,20,000/- @ Rs.9,600/- per acre. The total amount of lease was paid by the lessee to BAL Kishan-petitioner herein in advance. Petitioner, owner of the land, had an electric connection on his tubewell and there were outstanding dues of Rs.28,548/- against the petitioner from the Electricity Department. The petitioner did not deposit the amount and, consequently, electricity connection was disconnected. Respondent could not draw any water due to non-supply of electricity. The crops were badly damaged. On the filing of the complaint before the District Forum, petitioner was directed to deposit 50% of the amount due, to get the electric connection restored, which the petitioner did not do. The District Forum allowed the complaint filed by the respondent and directed the petitioner to pay a sum of Rs.1,20,000/- which had been given by the respondent in advance along with interest @ 9% from the date of institution of complaint till its realization. Rs. 20,000/- were awarded on account of harassment, mental tension and worries and disappointment suffered by the respondent. Rs. 10,000/- were awarded towards loss of crops which was standing in the field. Rs. 3,000/- were awarded

as costs.

Petitioner being aggrieved, filed an Appeal before the State Consumer Disputes Redressal Commission, Haryana (hereinafter referred to as the State Commission for short). State Commission, by its impugned Order, upheld the Order of the District Forum and dismiss the Appeal.

3. COUNSEL for the parties have been heard at length. Counsel for the petitioner contended that respondent was not a consumer within the meaning of definition of consumer under Section 2(1)(d) of the Consumer Protection Act, 1986 (hereinafter referred to as the Act for short). We do not find any substance in this contention. Only because of the electrical tubewell installed on the land, the respondent had taken the land on lease @ Rs.9,600/- per acre. It was petitioners duty to get the tubewell in a working condition so that the respondent could grow the crops in his fields. In the absence of irrigation, respondent could not have successfully grow the crops. This was the service provided by the petitioner to the respondent.

4. IT was next contended by the Counsel for the petitioner that since he had handed over the land to the respondent, it was the duty of the respondent to pay the electricity charges. We do not agree with this submission either. IT was the responsibility of the petitioner to ensure that water is made available for irrigation purposes. The water could be supplied either through canal or through the tubewell, which was being run with electricity. Insofar as the electricity charges are concerned, the same were to be defrayed by the petitioner. There was no written agreement between the parties. Without their being a condition in the agreement that the electricity charges were to be paid by the respondent, the petitioner cannot shift the burden of payment of electricity on the respondent. The finding recorded by the Foras below is based on appreciation of evidences. In exercise of Revisional jurisdiction under Section 21 of the Act, this Commission can interfere only if the State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity. For the reasons stated above, we do not find any substance in this Revision Petition and dismiss the same. No costs.