(2005) 12 NCDRC CK 0052

In the National Consumer Disputes Redressal Commission

BIHAR STATE HOUSING CO-OPERATIVE FEDERATION LTD. APPELLANT

Vs

SUSHILA DEVI RESPONDENT

Date of Decision : 13-12-2005

Acts Referred:

Citation : 2006 1 CPR 299 : 2006 2 CPC 209 : 2006 2 CPJ 197

Hon'ble Judges : M.B.Shah , P.D.Shenoy J.

Final Decision : Revision dismissed

Judgement

1. THIS revision petition is filed by the Bihar State Housing Co-operative Federation Ltd. against the judgment and order dated 14.7.2004 passed in Appeal No. 452/04 by the State Commission, Bihar. The State Commission dismissed the appeal on the ground that there was delay of about six months and 15 days in filing the appeal and the explanation given by the appellant was not satisfactory for condonation of delay.

2. IN our view, the State Commission has discussed the grounds mentioned by the appellant for condonation of such long delay. It cannot be said that the said order is, in any way, unjustified. However, we have heard the learned Counsel for the petitioner and the respondent on merits to find out whether the impugned order passed by the District Forum is in any way, erroneous.

It has been pointed out by the learned Counsel for the complainant that the complainant took a loan of Rs. 37,000 from the Secretary of the Co-operative Society, Khagaria, Bihar. The said Society is affiliated to the petitioner Federation. The amount was borrowed in the year 1983. It is also stated that the complainant started repayment of the loan from time to time and he paid Rs. 1,17,553. 32 to the Federation. Despite this no original papers relating to land record and loan free certification were given to the complainant. It is the say of the complainant that this was because some officers of the petitioner made unjustified demands and the husband of the complainant did not yield to such demands as he was a retired Government employee and does not believe in such corrupt practices.

3. HENCE, the complainant approached the District Forum for redressal of her grievances. The District Forum by order dated 16.10.2003 allowed the said complaint and directed the petitioner to issue loan free certificate and original land record to the complainant. For this purpose, the District Forum has verified the fact that the complainant has paid a sum of Rs. 1,17,553.32 for a loan amount of Rs. 37,000. As against this, the federation contended that the complainant has paid only Rs. 1,07,553.32. Learned Amicus Curiae appearing on behalf of the complainant pointed out that the entire amount was paid by the demand drafts and account payee cheques and this aspect is verified by the District Forum. To this learned Counsel for the petitioner submitted that with regard to Rs. 10,000 there is a dispute because the same amount was not forwarded by the Secretary of the Society to the Federation. It appears that no such plea was taken before the District Forum. In any set of circumstances, the Secretary of the Society was authorised to collect the amount on behalf of the petitioner Federation. HENCE, this submission is without any substance. The learned Counsel for the petitioner further submitted that the dispute between the management of the petitioner and member of the petitioner-society, cannot be dealt with by the Consumer Fora. In our view, this submission does not require much consideration in view of the decision of the Supreme Court in the case of Secretary, Thirumurugan Co-operative Agricultural Credit Society v. M. Lalitha (Dead) through legal heirs and Others, I (2004) CPJ 1 (SC)=I (2004) SLT 200=(2004) 1 SCC 305, wherein it is held that the Consumer Fora has jurisdiction as there is no specific exclusion for such dispute.

4. FOLLOWING the said decision of the Apex Court, same view was taken by this Commission in the case of Ms. Jagjit Kumari v. Managing Committee, Kailash Co-operative Housing Building Society Ltd. and Others, III (2005) CPJ 92 (NC), Revision Petition No. 599/1999, decided on 2.3.2005, wherein the society raised various contentions, including the contention that the proceedings under the Consumer Protection Act, 1986 were not maintainable in view of Section 72 of Himachal Pradesh Co-operative Societies Act, 1968. Further, prior to that decision also, this Commission in the case of Kalawati and Others v. United Vaish Co-operative Thirft and Credit Society Ltd., I (2002) CPJ 71 (NC), Revision Petition Nos. 823 to 826/01, decided on 26.9.2001, has taken the same view and held that such complaints were maintainable before the Consumer Fora by interpreting the relevant provisions of the Act. Hence, there is no substance in the contention that Consumer Fora has no jurisdiction to decide the dispute involved in this petition. In this view of the matter, this revision petition is dismissed. Considering the mental agony suffered by the husband of the complainant who is required to attend this Commission and the State Commission this is a fit case for awarding compensation of Rs. 10,000. Hence, petitioner shall pay the said amount to the complainant as costs within a period of four weeks by way of demand draft drawn in favour of the complainant.

5. WE appreciate the assistance rendered by Mr. Vinod Kumar, Amicus Curiae. Revision dismissed.

