

(2004) 05 NCDRC CK 0018

In the National Consumer Disputes Redressal Commission

Chhattisgarh State Electricity Board

APPELLANT

Vs

MEKJI MEGHJI KHIMJI BHAI MISTRI

RESPONDENT

Date of Decision : 12-05-2004

Acts Referred:

Citation : 2004 3 CLT 391 : 2004 3 CPR 128 : 2004 4 CPJ 71

Hon'ble Judges : V.K.Agrawal , R.S.Awasthis J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal, under Section 15 of the Consumer Protection Act, 1986, is directed against the order dated 6.3.2002 in Complaint No. 107/01 by District Consumer Disputes Redressal Forum, Rajnandgaon (hereinafter called the "District Forum" for short) directing the appellants to refund within 2 months the amount of Rs. 16,716/-. It was further directed that interest @ 9% per annum would also be payable in case it is not refunded within 2 months.

2. UNDISPUTABLY the complainant had applied for an electric connection for Flour Mill. As per directives of the respondent Electricity Board, he had deposited on 9.5.2000 of Rs. 16,716/- and Rs. 626/- as Security Deposit for obtaining the said electric connection. Later on the complainant/respondent sent an intimation dated 9.4.2001 to the appellants that his application for installation of the electric connection may be cancelled, as he is unable to take the connection due to damage to his property at Kutch on account of earthquake and on account of his ill-health. It is also not in dispute that the appellant Board had sent to the complainant bills for the months of June, 2001 to September, 2001 raising demand in respect of the said electric connection. The demand as above was challenged and it was prayed that the amount deposited by the complainant be refunded. The complaint was resisted by the appellants. In their written version it was averred that complainant/respondent had applied for and deposited the amount as per rules for obtaining 25 HP electric connection. Thereafter, an agreement was entered into between the parties. It was further averred that on the agreement coming into force, demand of electricity charges towards the said

electric connection was raised by the appellants. According to the appellants the demand of electricity charges was justified and the complainant was not entitled to any relief.

District Forum in the impugned order held that the agreement between the parties never came into force and, therefore, the appellants were not entitled to cover any amount towards electricity charges and were liable to refund the amount deposited by the complainant/respondent. Accordingly, the appellant was directed to refund the amount of Rs. 16,716/-.

3. LEARNED Counsel for the appellant assailed the impugned order. It was submitted that the complainant had entered into an agreement with the Electricity Board on 9.6.2000 whereby electric connection was to be given to him. It was further submitted that appellant Electricity Board had incurred substantial expenditure in installation of the electric connection as is evidenced by the estimate furnished in this appeal. It was further submitted that the intimation of the completion of the arrangements for giving electric connection was sent to the complainant on 28.10.2000 and, therefore, the agreement had come into force after the expiry of 3 months thereafter. Appellants, therefore, were justified in raising the demand for electricity charges from the complainant/respondent. In this appeal by an application under Order 41 Rule 27, C.P.C., two documents are sought to be filed. One of the said documents is the letter dated 25.4.2000 whereby the Asstt. Engineer has been intimated that the estimate for installation of electric connection of the complainant has been sanctioned. The other document is the detailed estimate and amount spent for installation of the electric connection in the premises of the complainant/respondent. During argument in appeal yet another document has been filed which is a copy of the despatch register showing that by despatch No. 2904 letter dated 28.10.2000 has been despatched.

4. IT may be mentioned at the outset that no proper reason has been assigned as to why the above documents were not produced in the District Forum. However, even if these documents are taken into consideration, yet they would not support the case of the appellants as would be clear from the discussion which follows. It may be noticed that the main dispute between the parties is as to whether the agreement dated 9.6.2000 for supply of electric connection had come into force? In the above respect Clause 2 of the said agreement stipulates that after Electric Deptt. completes the arrangement for supply of electric supply, it will issue a notice to the consumer. It is further stipulated in the same clause that the agreement would come into force on the date on which the consumer takes electric connection or failing that after the expiry of 3 months from the date such intimation is received by the consumer. In the above reference it is noticed that though the appellants in their written version averred that letter dated 28.10.2000 was issued to the complainant regarding the completion of the formalities for supply of electric connection, however, no material to substantiate the contention as above has been placed on record. In this appeal, while final

arguments were being heard, copy of the despatch register of the appellants has been produced in which there is an entry at despatch No. 2904 purporting to show that Revenue intimation (Rajaswa Suchana) addressed to the complainant/respondent was sent to him on 28.10.2000. However, the particulars as to how the said letter was sent are not given in the said register. The relevant columns thereof are left blank. In the foregoing circumstances, it cannot be said that the letter dated 28.10.2000 intimating the completion of the installation for supply of electric supply was actually served on the complainant/respondent or received by him. That being so, it cannot be said that respondent was duly intimated about the completion of formalities for supply of electric connection. Therefore, it is clear that Clause 2 of the above agreement dated 9.6.2000 was not duly complied with by the appellants. Hence it cannot be said that the agreement came into force. The appellants, therefore, cannot recover or raise demand for recovery of any electricity charges from the complainant/respondent without the agreement having come into force. Therefore, their demand was not justified. It may further be noticed that the complainant, even before the agreement came into force, had on 9.4.2001 intimated the appellants that he wishes to withdraw his application. Therefore, the complainant/respondent is entitled to refund of Rs. 16,716/- deposited by him with the appellants. District Forum, therefore, was justified in recording the finding as above. The said findings are affirmed. This appeal has no substance. It is accordingly dismissed. However, in the circumstances of the case the parties shall bear their own cost of this appeal as incurred. Appeal dismissed.