

(1997) 02 NCDRC CK 0017

In the National Consumer Disputes Redressal Commission

C.Murugesan

APPELLANT

Vs

Chairman, Tamil Nadu Slum Clearance Board

RESPONDENT

Date of Decision : 12-02-1997

Acts Referred:

Citation : 1997 2 CPJ 263 : 1997 3 CPR 261

Hon'ble Judges : E.J.Bellie , Angel Arulraj J.

Final Decision : Complaint dismissed

Judgement

1. IN this complaint, the case of the Ist complainant is that he is living as a tenant in a residential apartment belonging to the opposite party Tamil Nadu Slum Clearance Board. While the wife of the Ist complainant was sitting on the rear side of the building, a concrete slab from the balcony over her fell down on her head and on account of that she sustained serious injury. She was taken to the hospital, but on the way she succumbed to the said injury. The concrete slab fell down only because the building has not been properly maintained by the opposite party and, therefore, there has been deficiency in service on the part of the opposite party. On these allegations the, complaint has been filed for damages claiming a total sum of Rs. 15,00,000/for mental agony caused to him.

2. THE opposite party filed a written version contending that the complaint is not maintainable and the complainant is not a consumer as he is only a tenant; and it is not true that the building was not maintained properly. The first point that arises for consideration in the case is whether the complainant was a consumer as defined under Section 2(1)(d) of the Consumer Protection Act. His case is that he was a tenant in occupation of a flat of the opposite party, and for that he was paying rent. His grievance is that the opposite party has not maintained the building properly and, therefore, the concrete slab fell down on his wife and so according to him the opposite party was deficient in service in not maintaining the building properly. But the maintenance of the building by the opposite party is not a service which has been hired or availed of by the complainant. He has not paid any consideration for the maintenance of the building. This being the

case, the complainant is not a consumer. It follows, therefore, that the complaint is not maintainable. The complainant may have a civil action for negligence on the part of the opposite party, and for that the proper Forum is a Civil Court and not the Consumer Forum.

In this view of the matter, the complaint is dismissed. But the complainant is at liberty to redress his grievance in a Civil Court if he so desires. We believe that if such a suit is filed in a Civil Court, the time taken for prosecuting the present complaint will be considered as regards the limitation. There will be no order as to costs. Complaint dismissed.