

(2010) 12 NCDRC CK 0011

In the National Consumer Disputes Redressal Commission

DELHI JAL BOARD

APPELLANT

Vs

Satpal Dewan

RESPONDENT

Date of Decision : 09-12-2010

Acts Referred:

Citation : 2011 1 CPJ 56

Hon'ble Judges : Ashok Bhan , Vineeta Rai J.

Advocate : H.S.Kohli , S.R.Dewan

Judgement

1. MR. Justice Ashok Bhan, President-Delhi Jal Board, the Petitioner herein, was the Opposite Party before the District Forum. The Respondent-Complainant had a water connection installed at his premises bearing No. 2569, Hudson Lane, Kigsway Camp, Delhi. He had deposited Rs. 2,820 for getting the water connection. Subsequently, a demand of Rs. 20,376 was raised towards cost of water which the Respondent resisted, but ultimately deposited the said sum under protest. Thereafter, Respondent filed the complaint before the District Forum seeking refund of the amount of Rs. 20,376.

2. ON being served, the Petitioner put in appearance and filed a comprehensive reply pointing out that the Complainant had misconstrued the fact that the payment of Rs. 2,820 made by the Respondent on 28.11.2000 did not include the cost of water rather the same was required to be deposited by the consumer at the time of sanction of the water connection. That the sum of Rs. 20,376 was demanded by the Petitioner towards the cost of water which was used by the Respondent in raising construction in the premises where the water connection had been installed. That the sum of Rs. 20,376 demanded as cost of water was as per the schedule of tariff which had been explained in the reply filed by the Petitioner.

3. THE District Forum allowed the complaint by a short and cryptic order, which reads as under: "Today the complainant has shown to this Forum and also to the O.P. that he is owner of ground floor only and he had deposited the road-cutting fee, etc. for obtaining the connection for the ground floor. The complainant,

further states that he has nothing to do with first floor and second floor and also discloses the names of owners of first floor and second floor in his complaint and he has further stated that the O.P. should have collected the dues from the owners of first floor and second floor before providing them connection separately. The contention of the complainant holds weight and why should the complainant be unnecessarily harassed and punished for no fault of his. The O.P. should take appropriate action after giving notice to the owner of first and second floor and levy charges as are due from them as per rules. The O.P. is further directed to refund Rs. 20,376 which he had deposited on the demand notice of the O.P. under pressure fearing disconnection. For harassing the complainant, the O.P. is further directed to pay Rs. 500 as compensation to the complainant. The complaint is disposed of accordingly."

4. AGGRIEVED by this, the Petitioner filed appeal before the State Commission. The State Commission dismissed the appeal by observing: "5. The grievance of the appellant raised through this appeal is that at the relevant time when the construction was being raised it was a single unit and therefore the occupier of the ground floor was the holders of that connection and the water was appropriated for raising the construction of the first and second floor. There is no substance in this contention as it is the original owner of the premises who had raised the construction and not the subsequent purchasers of the part of the premises."

5. INITIALLY only ground floor had been built. Water connection had been obtained for the ground floor for which the Respondent had deposited the sum of Rs. 2,820. Thereafter, first and second floor were built. For raising the construction of first and second floor water was used from the water connection installed at the ground floor for which a demand of Rs. 20,376 was raised. For below have failed to appreciate that the Petitioner had raised the demand as per the tariff approved by the competent authority on account of construction/alteration/addition or modification carried out in the premises where the water connection had been installed. No separate water connection had been taken for the use of water for the first and second floor. The findings recorded by the Fora below that the Petitioner could recover the amount from the owners of the first and second floor is erroneous and cannot be sustained. Water was taken from the water connection of the ground floor. The charges had to be raised for the water used from the said water connection. Question is not of ownership. For the construction of the first and second floor water was taken from the water connection at the ground floor. Since water was used from the water connection of the Respondent, charges had to be raised as per meter reading of the said water connection. It is not the case of the Respondent that any separate water connection had been taken for the construction of the first and second floor. As the water was taken from the water connection of the Respondent, he is liable to make the payment for the use of the said water.

6. FOR the reasons stated above, Revision Petition is accepted, order under

revision is set aside and the complaint is ordered to be dismissed. However, Respondent would be at liberty to recover the amount of Rs. 20,376 from the owners of the first and second floor in accordance with law.