
(1995) 04 NCDRC CK 0012

In the National Consumer Disputes Redressal Commission

G.A. RAJA PRABHU

APPELLANT

Vs

TAHSILDAR, BANGALORE SOUTH TALUK

RESPONDENT

Date of Decision : 06-04-1995

Acts Referred:

Citation : 1995 2 CPJ 434 : 1995 2 CPR 307

Hon'ble Judges : D.R.Vithal Rao , Susheela Cheluvaraju J.

Judgement

1. IN this complaint the complainant has sought for a compensation in a sum of Rs. 16,46,875/- with interest at the rate of 18% per annum thereon.

2. IT is the case of the complainant that he purchased an agricultural land situated at Kommughatta village, Kengeri Hobli in a public auction held in the year 1984. The said land belonged to one Dr. A.M.R. Prasad who had failed to make payment of a sum of Rs. 99,163/- to the Punjab National Bank, Jayanagar Branch, Bangalore and in recovery of the said amount the Tahsildar, South Taluk had put the said land for a public auction. The complainant further averred that he was the highest bidder in the said auction. He deposited the entire amount of Rs. 1,25,500/- by 4.7.1984. Dr. Prasad filed an appeal before the Assistant Commissioner to set aside the said sale. The appeal came to be dismissed. But the second appeal before the Deputy Commissioner by Dr. Prasad, the auction sale was set aside. Against the said order though he filed a Revision Petition before the Karnataka Appellate Tribunal, Bangalore, which came to be dismissed. Even the Writ Petition filed by him before the Hon'ble the High Court came to be dismissed.

The complainant further averred that the Tahsildar refunded a sum of Rs. 93,125/- on 13.5.1992 on making demands on several occasions. The complainant in the complaint averred that he would have earned a sum of Rs. 30,000/- per year from the said land and would have also earned further a sum of Rs. 11,00,000/- by way of appreciation of value of the land and thus he claimed huge sum of Rs. 16,46,875/- from the Opp. Party-the Tahsildar.

3. THE opp. party even on service remained absent. No version came to be filed. During enquiry the complainant filed his affidavit.

4. WE heard the learned Counsel for the complainant and perused the material on record. The complainant admittedly is the purchaser of an agricultural land in an auction sale. Having regard to this fact, in our opinion, the complainant cannot be classified as a consumer under the provisions of the Consumer Protection Act. This Commission in *N.S. Nayak v. Bangalore Development Authority*, reported in II (1991) CPJ 537, while considering such in aspect of the matter, held as under: "In view of the decision of the National Commission in *Allied (Garments) Exports Industries Pvt. Ltd. v. DDA*, that as the transaction of the complainant is one of outright sale of immovable property at an auction, the complaint is not maintainable. We uphold the preliminary objections of the respondent. In this case also, the complainant had purchased the site in an auction. Hence, it is a case of outright sale of immovable property at an auction. Therefore, he will not be a Consumer within the meaning of Section 2(1)(d) of the Consumer Protection Act, 1986. If that is so, this complaint cannot be entertained by this Commission."

Having regard to this fact and in the circumstances of the case, we are constrained to hold that the complainant is not a consumer and the dispute raised by him is not a consumer dispute and so, the complaint is liable to be dismissed. In the result, therefore, this complaint fails and it is dismissed. Complaint dismissed.