(2002) 03 NCDRC CK 0052

In the National Consumer Disputes Redressal Commission

M.D.ORISSA COOPERATIVE HOUSING CORPORATION LTD. APPELLANT

Vs

K.S.SUDARSAN RESPONDENT

Date of Decision : 15-03-2002

Acts Referred:

Citation : 2002 3 CPJ 181 : 2003 1 CPR 40 : 2003 2 CLT 157 : 2003 2 CPC 290

Hon'ble Judges : D.P.Wadhwa , J.K.Mehra , Rajyalakshmi Rao , B.K.Taimni J.

Final Decision : Revision Petition dismissed

Judgement

1. THIS is a revision petition against the judgment of the Orissa State Consumer Disputes Redressal Commission. One of the only question to be considered by us is as to whether the Fora below under the Consumer Protection Act, 1986 had any jurisdiction to entertain and try the complaints when there is a bar under the provisions of Section 68 of the Orissa Cooperative Societies Act which according to Mr. Jayant Das, learned Counsel for the petitioner bars the jurisdiction of the Fora under the Consumer Protection Act. The relevant provision as contained in Section 3 of the Orissa Cooperative Societies Act, reads as under : "No dispute referred to in this section shall be entertained by any Civil Court and decision of the Registrar in this respect shall, subject to the provisions of Section 70, be final." To examine his point we will have to consider some of the relevant provisions :

Section 3 of the Consumer Protection Act reads as under : "3. Act not in derogation of any other law-The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force."

Some of the other provisions of pieces of legislation which exclude the jurisdiction of other Courts/Fora may also be noted, such as Section 18, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. "18. Bar of jurisdiction- On and from the appointed day, no Court or other authority shall have, or be entitled to exercise, any jurisdiction, powers or authority (except the Supreme Court and a High Court exercising jurisdiction under Articles 226 and 227 of the Constitution) relation to the matters specified in Section 17." (No

Court or authority - Emphasis supplied) Section 15 of the Railway Claims Tribunals Act, 1987 :

"15. Bar of jurisdiction-On and from the appointed day, no Court or other authority shall have, or be entitled to, exercise any jurisdiction, powers or authority in relation to the matters referred to in [Sub-sections (1) and (1A)] of Section 13."

2. THE question before us is not as to whether the dispute, in the present case, is covered under the Orissa Cooperative Societies Act. For the sake of argument, we will assume that the dispute before us also falls within the jurisdiction of the authority provided under the said Cooperative Societies Act. But, considering the provisions of Section 3 of the Consumer Protection Act we find that it has been worded in the widest terms and leaves no one in any doubt about the remedies under the Consumer Protection Act being in addition to and not in derogation of any other law for the time being in force. THErefore, even if any other Act provides for any remedy to a litigant but, does not bar the jurisdiction of the Fora under the Act, it will be open to the litigant to go to District Forum or State Commission as the case may be and seek his remedy under this Act. Fora under this Act are not Civil Courts even though they have the trappings of a Civil Court. Unlike the Railway Claims Tribunal Act, 1987 and the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 there is no bar to entertain any dispute on the jurisdiction of Fora and the bar contained is applicable only to Courts. As already observed Fora under Consumer Protection Act are not Courts even though they have the trappings of the Court and the Legislature did not in its wisdom extend the bar to other authority and confined such ouster of jurisdiction to Courts only.

From the above provisions, it appears that the Legislature in the State of Orissa wanted to bar the jurisdiction of any Civil Court only and not of any other Tribunal or authority as has been done by the Legislature in other cases.

3. THIS question had come up before this Commission for consideration in the case of Smt. Kalawati & Ors. v. M/s. United Vaish Cooperative Thrift and Credit Society Ltd., Revision Petition Nos. 826 to 826 of 2001 wherein after considering the argument of the parties it was held that the Fora created under the Consumer Protection Act are not Civil Courts and the jurisdiction was not barred. In the light of that, we feel that the objection to the jurisdiction has no merit and has to be rejected. The next question to be considered was the rate of interest which in the judgment has been brought down to 12% only. In our view it is quite reasonable and does not call for any interference. In the circumstances of the case, the Revision Petition is dismissed. Revision Petition dismissed.