
(2004) 04 NCDRC CK 0012

In the National Consumer Disputes Redressal Commission

Motilal

APPELLANT

Vs

JILA ANTYAVASAYEE SAHKARI SAMITI MARYADIT

RESPONDENT

Date of Decision : 21-04-2004

Acts Referred:

Citation : 2004 1 CPC 675 : 2004 3 CPJ 729

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

Final Decision : Appeal allowed

Judgement

1. AS both these Appeal Nos. 775 and 534/2003 under Section 15 of the Consumer Protection Act, 1986, (hereinafter called the "Act" for short) involve common questions, they are being disposed of, by this common order.

2. APPEAL No. 775/2003 arises from order dated 30.4.2002 in Complaint No. 3/2002 while APPEAL No. 534/2003 is directed against the order dated 30.8.2001 in Complaint No. 84/2000, of the District Consumer Disputes Redressal Forum, Rajnandgaon (hereinafter called the "District Forum" for short) , dismissing the said complaints holding that the jurisdiction of the District Forum is barred in view of Section 64(1) read with Section 82 of the M.P. Co-operative Societies Act, 1960 (hereinafter called the "Societies Act" for short). As per averments in the complaint, he had obtained loan from the respondent/society under Pawan Putra Scheme for the purchase of tempo. It was further averred by the complainant that no interest was payable on the loan amount obtained by the complainant from the respondent/society. It was further averred that the respondent/society is, however, demanding interest from the complainant and has recovered from him Rs. 1,187.00 towards insurance premium of the vehicle. He prayed for the refund of the above amount and sought a declaration that the demand of interest by the respondent/society be declared as illegal.

The respondent/society resisted the complaint and raised a preliminary objection that the subject matter of the complaint was covered by Section 64 of the Societies Act and the complaint was, therefore, barred under Section 82 of the

Act. The objection as above was accepted by the District Forum and it held that its jurisdiction was barred in view of Section 64 read with Section 82 of the Societies Act.

3. THE learned Counsel for the complainant/appellant submitted that the view as above of the learned District Forum was erroneous. It was submitted that provision of the Societies Act would not operate as bar to the exercise of jurisdiction by the District Forum. It was, therefore, urged that the District Forum was competent to decide the dispute between the parties, in view of Section 3 of the Act. It may be noticed that the complainant/appellant had obtained loan from the respondent/society under the Pawan Putra Scheme which according to him, was repayable without interest. However, he felt aggrieved as the respondent/society demanded interest on the loan so obtained by him as also due to recovery of premium paid towards the insurance of the vehicle purchased by the complainant. The dispute as above clearly amounts to consumer dispute between the parties.

4. SO far as the jurisdiction of the District Forum is concerned, it may be noticed that as per Section 3 of the Act, remedy under the Act shall be in addition and not in derogation to the other remedies available to the complainant. It may also be noticed that under Section 82 of the SOcieties Act, the jurisdiction of a Civil or Revenue Court has been barred. The District Forum though has trappings of a Civil Court, but is not a Civil Court or for that matter a Revenue Court. In the circumstances, notwithstanding Section 82 of the SOcieties Act, creating a bar of jurisdiction of Civil and Revenue Courts, the complainant was competent to pursue his remedy under the Act, in the District Forum, which was competent and has jurisdiction to consider and decide the consumer dispute between the parties. Reference in the above context may be made to the decision of the National Commission in *Smt. Kalawati & Ors. v. M/s. United Vaish Co-operative Thrift & Credit Society Ltd.*, I (2002) CPJ 71 (NC)=2001(3) CPR 194 (NC). In the said case, the question which arose for consideration of the National Commission was regarding bar of jurisdiction of Courts under Section 93 of the Delhi Co-operative Societies Act, 1972, which is substantially similar to Section 82 of the Societies Act. It was observed by the National Commission that Section 3 of the Act is worded in widest terms and leaves no one in doubt that the provisions of the Act shall be in addition and not in derogation of any other law for the time being in force. Thus, even if other remedy is provided under some other Act, the complainant could still approach the District Forum, if he was a consumer under the Act. It was further laid down that simply because some other remedy exists under other law, will not operate as bar to the filing of complaint. It was also observed therein that a District Forum is neither a Civil Court nor a Revenue Court and, therefore, Section 93 of the Delhi Co-operative Societies Act would not come in the way to the District Forum assuming jurisdiction. It was, therefore, held in the said case that Section 93 of the Delhi Co-operative Societies Act would not bar the jurisdiction of the District Forum. The dictum as above applies in the instant case, and the jurisdiction of the District Forum does

not stand barred, despite provisions under Section 82 of the Societies Act. The complainant was justified in approaching the District Forum. The learned District Forum erred in holding that it has no jurisdiction in view of the bar created under Section 82 of the Societies Act. The impugned order, therefore, deserves to be set aside. As the complaint has been dismissed solely on the preliminary objection as above, therefore, the complaint deserves to be remitted to the District Forum with a direction to decide it on merits, in accordance with law, after affording the parties full opportunity of hearing.

5. THE appeal is, therefore, allowed and the impugned order is set aside. THE complaints are sent back to the District Forum for decision on merits in accordance with law, after affording due opportunity of hearing to both the parties. Appeal allowed.