

(2008) 01 NCDRC CK 0073

In the National Consumer Disputes Redressal Commission

PUBLIC HEALTH ENGINEERING DEPARTMENT

APPELLANT

Vs

MADAN LAL

RESPONDENT

Date of Decision : 08-01-2008

Acts Referred:

Citation : 2008 1 CPJ 479 : 2008 1 CPR 339

Hon'ble Judges : P.D.Shenoy , Anupam Dasgupta J.

Final Decision : Revision Petition dismissed

Judgement

1. -HEARD the learned Counsel for the revision petitioner at length.

2. IN this case the complainant had alleged that there was leakage in the pipeline laid by the Public Health Engineering Department which resulted in excessive damage to his house. Complainant also had water connection and he was consuming water from the same pipeline. On 21. 8. 1990 the complainant's land and the land in front of his house suffered subsidence, causing fall of the roof. Cracks had developed in the walls of the rooms also. The electricity pole was also tilted. He accordingly lodged complaint in the police station. On the complainant's report, employees of the Electricity Department and Water Department came to the spot and found that the pipeline was leaking and because of the leakage, the drainage was clogged. They tried to repair the same. The complainant had also given a complaint to the District Magistrate, Kota, on whose instructions the local Tehsildar inspected the area and found damage to the tune of Rs. 60,000. On the other hand, complainant had claimed Rs. 1,50,000 as he had spent this amount for rectification of the defects. The District Forum after perusing the records and hearing the parties, directed Public Health Engineering Department to pay Rs. 1,50,000 to the complainant with 9% interest from 21. 8. 1990 and Rs. 1,000 as cost.

Aggrieved by the order of the District Forum, the opposite parties filed an appeal before the State Commission. The State Commission observed that was clear from the documents placed on record that the loss had been assessed by the Junior Engineer of the Irrigation Department at Rs. 1,50,000 in his report (Ex.

P10) whereas in the notice given by the complainant he had stated that he incurred expenditure of Rs. 1,20,000. Accordingly, the State Commission modified the order and directed the opposite parties to pay Rs. 1,20,000 and pay interest at the rate of 9% from 26. 8. 1995 instead of 21. 8. 1990.

3. DISSATISFIED with the order of the State Commission, Assistant Engineer, Public Health Engineering Department and others have filed this revision petition. The grounds urged by the learned Counsel is that the State Commission failed to appreciate the report of Hydrological Expert that the leakage was detected in the water pipeline which was at a distance of 22 feet from the house of complainant and accordingly there was grave error in the assessment of loss by the State Commission. On a query from us, the learned Counsel could not, however, produce a copy of the report of the Hydrological Expert. It is clear from the records that the complainant is a consumer as he is drawing water from the same pipeline and there was extensive damage to his house on account of leakage from the said pipeline. The State Commission, after analysing the evidence and records before it, has rightly reduced the compensation from Rs. 1,50,000 to 1,20,000. We do not find any material irregularity or jurisdictional error warranting our interference under Section 21 (b) of Consumer Protection Act, 1986.

4. HENCE, this revision petition is dismissed. R. P. dismissed.