
(2007) 12 NCDRC CK 0024

In the National Consumer Disputes Redressal Commission

Rakesh Kumar Shaw

APPELLANT

Vs

ASHOK KUMAR NAYAK

RESPONDENT

Date of Decision : 14-12-2007

Acts Referred:

Citation : 2008 1 CPJ 226 : 2008 1 CPR 309

Hon'ble Judges : K.S.Gupta , Rajyalakshmi Rao , P.D.Shenoy J.

Advocate : Barun Prasad , Sagar Pradhan , Shekhar G.Devasa

Judgement

1. -THIS revision is directed against the order dated 24. 1. 2006 of Consumer Disputes Redressal Commission West Bengal, Kolkata allowing appeal against the order dated 3. 3. 2004 of a District Forum and dismissing the complaint. The District Forum while accepting the complaint filed by the petitioner had directed the respondent to refund the amount of Rs 50,000 along with interest @ 6% p. a. from 15. 7. 2000, pay Rs. 1,000 towards compensation as also cost of Rs. 500 to the petitioner.

2. IN nutshell, the facts giving rise to this revision are these. In order to get the plan sanctioned for drainage from Kolkata Municipal Corporation and construct the drainage connection at premises No. 7/2, Motisil Street, Kolkata by the respondent/ opposite party, an authorised plumber and contractor, the petitioner invited quotation. Respondent submitted the quotation dated 15. 7. 2003 and undertook to do the job for a sum of Rs. 70,000. Petitioner alleged that amount of Rs. 50,000 was paid as advance to the respondent and the receipt thereof was acknowledged in the quotation dated 15. 7. 2003 itself. Respondent delayed the matter on one ground or the other. Ultimately, the petitioner got a legal notice dated 4. 11. 2003 served on the respondent. In reply to legal notice, the respondent denied receipt of the amount of Rs. 50,000 from the petitioner. Thereafter, alleging unfair trade practice on the part of respondent, the petitioner filed complaint seeking refund of the paid amount with interest and compensation which was contested by filing written version by the respondent. It was not denied that the respondent is a registered contractor carrying on

business of plumbing, etc. and had submitted the quotation dated 15. 7. 2003 to the petitioner. Receipt of amount of Rs. 50,000 as advance on 15. 7. 2003 was, however, denied. It was stated that no work order was issued by the petitioner. We have heard Mr. Barun Prasad, Advocate for the petitioner and Mr. Shekhar G. Devasa, Advocate for the respondent.

Controversy between the parties centres around the receipt/non-receipt of the amount of Rs. 50,000 by the respondent from the petitioners on 5. 7. 2003. Quotation dated 15. 7. 2003 (copy at page No. 18) which is material, omitting immaterial portion, reads thus: "re: House drainage connection at premises No. 7/2, Motisil Street, Kolkata-700 013. 1. Labour charges for cutting the frenches. Laying S. W. pipe 6" and with making 1 No. P. T. with supplying materials like pipe Cement Khua, etc. to complete the job for M. T. to K. M. C. sewer with K. M. C. sanction. And plumber supervision fee (Seventy thousand only) Rs. 70,000. 00 n. B. 1. Party paid Ad. 50,000 along with work order and balance at the time of connection. 2. Party making M. T. and pipe line with own cost. "

3. RESPONDENT admits of having submitted this quotation to the petitioner. It is not the case of the respondent in the written version that any part of this quotation was written by mistake or through inadvertence. Bare reading of the contents under the "n. B. " above would show that amount of Rs. 50,000 was paid as advance and work order was also placed with the respondent. Obviously, plea taken by the respondent in regard to his having not received Rs. 50,000 and non-placing of work order is false. District Forum had, therefore, rightly passed the order for refund of the said amount and awarded interest as the petitioner was deprived of the use of money during all these years. Reasons recorded by the State Commission reversing the order of District Forum being erroneous cannot be legally sustained. Accordingly, while allowing revision aforesaid order of the State Commission dated 24. 1. 2006 is set aside and order dated 3. 3. 2004 of the District Forum is restored. Respondent will also pay Rs. 10,000 as cost to the petitioner. R. P. allowed.