

(2003) 05 NCDRC CK 0091

In the National Consumer Disputes Redressal Commission

RAM DEO SINGH @ RAM DEO PRASAD SINGH

APPELLANT

Vs

BIHAR STATE HOUSING CO-OPERATIVE FEDERATION LTD.

RESPONDENT

Date of Decision : 23-05-2003

Acts Referred:

Citation : 2003 2 CPC 564 : 2003 3 CPJ 13

Hon'ble Judges : K.S.Gupta , Rajyalakshmi Rao , B.K.Taimni J.

Final Decision : Revision Petition allowed

Judgement

1. THIS revision is directed against the order dated 13.11.2002 of Consumer Disputes Redressal Commission Bihar at Patna allowing appeal against the order dated 21.10.1998 of a District Forum and dismissing the complaint.

2. FACTS giving rise to this revision lie in a narrow compass. Petitioner/complainant as member of Tirhut Grih Nirman Sahyog Samiti, Madhubani was allotted plot No. AI/B in 1979 for construction of house in Tirhut Colony of Madhubani town. On approaching respondent/opposite party, the petitioner was sanctioned loan of Rs. 45,000/- for construction of house on the said plot. As per agreement executed between the parties, the petitioner was liable to pay interest @ 10.50% per annum on the loan amount. In case of default, penal interest was to be charged @ 2% per annum. Petitioner alleges that respondent charged interest in violation of the agreement. Against the loan amount of Rs. 41,000/- taken, the petitioner paid Rs. 70,975.40 upto the year 1997. Alleging deficiency in service on part of respondent, the petitioner filed a complaint before the District Forum which was allowed with direction to the respondent to calculate interest @ 10.50% and pay Rs. 5,000/- for causing harassment along with cost to the petitioner. To be only noticed that respondent was proceeded ex parte by the District Forum. Submission advanced by Mr. Anil Kumar Jha for petitioner was that the petitioner was erroneously non-suited by the State Commission on the ground of bar to the maintainability of complaint created by Section 48 of Bihar Cooperative Societies Act, 1935 and reliance by the State Commission on the decision in Chairman, Thiruvalluvar Transport Corporation v. Consumer Protection

Council, was misplaced. Submission has merit. Provision almost similar to said Section 48 is contained in Section 60 of the Delhi Cooperative Societies Act, 1972. In the decision in Smt. Kalawati v. M/s. United Vaish Co-op. Thrift and Credit Society Ltd., I (2002) CPJ 71 (NC)=1986-2002 Consumer 5793 (NS), one of the questions which arose for consideration was whether a Forum under the Consumer Protection Act, 1986 has no jurisdiction over the subject-matter of complaints in view of the provision of Section 60 r/w Section 93 of the Delhi Cooperative Societies Act, 1972. It was held that Section 93 does not bar the jurisdiction of a District Forum assuming jurisdiction in the matter. Applying the ratio of this decision to the facts of present case, the order under challenge cannot be legally sustained. Chairman, Thiruvalluvar Transport Corporation's case (supra), was rendered in an entirely different context and has no applicability to the facts of this case.

Consequently, while allowing revision, the order dated 13.11.2002 is set aside and case remanded to the State Commission for appeal being decided on merits. No order as to costs. Parties are directed to appear before the State Commission for directions on 11.7.2003. Revision Petition allowed.