

(2001) 08 NCDRC CK 0063

In the National Consumer Disputes Redressal Commission

RAMESH BHAI VRAJLAL RANPURA

APPELLANT

Vs

GUJARAT INDUSTRIAL DEVELOPMENT CORPN.

RESPONDENT

Date of Decision : 16-08-2001

Acts Referred:

Citation : 2001 3 CPR 129 : 2002 1 CPC 386 : 2002 2 CLT 187 : 2002 2 CPJ 12

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

Final Decision : Appeal dismissed

Judgement

1. APPELLANT Ramesh Bhai Vrajlal Ranpura has filed the appeal against the order of the Gujarat State Commission dismissing the complaint of the appellant alleging deficiency in service on the part of respondents - Gujarat Industrial Development Corporation and another (GIDC).

2. BRIEFLY, the facts are that Shed No. A/3 in Industrial Estate, Limbadi, Distt. Surendranagar was allotted to one Shilpi Industries by the respondent which was subsequently transferred in favour of the applicant on 8.5.1977. It is alleged by the complainant that facilities like supply of water, approach road from the Estate to the city, removal of nuisance, provision of street light and watchman was not provided by the respondent - GIDC for want of which, the appellant suffered losses and, hence, requested for compensation of Rs. 9,50,862/- comprising water charges paid to Municipality, salary paid to the worker for collection of water, interest paid to the Bankers for inventory stock, losses in non-executing the orders. The complaint was opposed by the respondent as being time barred and on account of principle of delay, laches and estoppels. It was also stated by the respondent that the status of the appellant is uncertain as proceedings for eviction under the Gujarat Public Premises [Eviction of Unauthorized Occupants] Act, 1972, had been initiated and the complaint before the State Commission was a counterblast. The State Commission after hearing both the parties and perusal of material on record, dismissed the complaint against which, the appeal has been filed before us. The main grounds of the appeal are that since the complaint was filed in 1991 and Section 24A of CPA was introduced in 1993 bar

of limitation does not apply, and more so, when there was continuous cause of action. According to him, all the deficiencies mentioned in the complaint, have not been gone into by the State Commission. It is wrong on the part of State Commission to conclude that water was to be supplied by the Limbadi Municipality. According to him, there was no uncertainty about the identity of the complainant as the amended partnership deed had already been submitted to the respondent Corporation. Not relying on the correspondence produced by the appellant is an error on the part of State Commission. State Commission was wrong in arriving at the conclusion that water is being provided by the Municipality for which charges have to be paid to them. It is incorrect to state that facility of road and passage have been made available to the Industrial Estate and street light and services of watchman have also been provided. There is a gross error on the part of the State Commission in not fully appreciating the material produced before it and passing order contrary to the facts of the case to the detriment of the appellant.

We see that complaint has been dismissed on the grounds of time-limit and on merit. Without going into the merits of the case, we see that the appellant has not crossed the first hurdle of bar of limitation. His argument that complaint was filed in 1991 and Section 24B of C.P.A. was introduced in 1993, hence, no time-limit applies, is not tenable in law. In several cases, this Commission and Hon"ble Supreme Court had held that when there was no specific provision regarding limitation in CPA, then the provisions of Indian Limitation Act were applicable. Absence of specific provision in CPA on time-limit did not give licence to any one to file complaint at any time. It is an admitted fact that the complainant-whatever his status in the partnership-got the Shed in 1977, he would have come to know of the deficiencies immediately even providing for a period of couple of years to seek remedy/relief through appropriate channels, it would only take him to 1979 or so and to file the complaint in 1991 is clearly time-barred under the then prevailing law of the land on the subject. Since, the appellant is unable to cross the first hurdle, we are not inclined to go into the merits of the case. We are inclined to concur with the view that the complaint appears to be a counter-blast for eviction proceedings initiated against him by the respondent - GIDC. The appeal is dismissed. No order on costs. Appeal dismissed.