
(2016) 05 NCDRC CK 0082

In the National Consumer Disputes Redressal Commission

Case No : 4362 of 2014

RAVI PALTA

APPELLANT

Vs

NARINDER SINGH & ANR.

RESPONDENT

Date of Decision : 31-05-2016

Acts Referred:

Citation : 2016 3 CPR 72

Hon'ble Judges : B.C. Gupta

Advocate : M. S. Doabia, Naresh Dilawari

Judgement

1. The impugned order dated 01.09.2011, passed by the U.T. State Consumer Disputes Redressal Commission, Chandigarh in First Appeal No. 69/2011, Narinder Singla vs. Municipal Corporation Chandigarh & Anr., has been challenged by way of these two revision petitions, filed by the respondents/ opposite parties 1 and 2, Municipal Corporation Chandigarh and Ravi Palta s/o Ramesh Chand Palta. The State Commission, vide impugned order, accepted the said appeal and modified the order dated 10.03.2011, passed by the District Consumer Disputes Redressal Forum, U.T. Chandigarh.

2. The brief facts are that the complainant, Narinder Singla s/o Manoj Kumar, claims himself to be the landlord and owner of industrial plot no. 402, Industrial Area, Phase-2, Chandigarh, measuring 450 sq. ft. on the ground that he is holding the general power of attorney, executed by the original owner, Anil Gulati. According to him, the OP-2, Ramesh Chand Palta is the tenant of the landlord in the said property. The complainant had obtained a regular water connection from the OP-1, Municipal Corporation Chandigarh for which, he was paying the regular bills etc. The complainant stated that he came to know that the OP-2, Ravi Palta was using illegal water connection from the main public health line of Municipal Corporation Chandigarh and hence, indulging in theft of water for his business of filling water dispensers and campers. The complainant Narinder Singla informed the OP-1, Municipal Corporation Chandigarh on 02.02.2009, regarding theft of water by Ravi Palta, following which, the

Corporation disconnected the said illegal connection. However, on 13.02.2009, the Corporation sent him a bill dated 11.02.2009 for Rs. 1,38,000/-, asking the complainant to pay the said amount as penal rent for the illegal water connection. The case of the complainant is that he had a regular water connection from the Municipal Corporation, Chandigarh and nothing was due against him for the said connection. However, since the illegal water connection had been taken by the tenant, Ravi Palta from the main health line, the Corporation should have realized the said charges from the tenant Ravi Palta. The complainant also alleged that the Corporation, instead of taking action against Ravi Palta, had disconnected the main connection of the complainant as well and stopped water supply to the whole premises. The complainant filed the consumer complaint in question, seeking direction to the Municipal Corporation to restore his water connection and to set aside the demand raised against him vide bill dated 11.02.2009 and give him compensation of Rs. 50,000/- for mental harassment and a further sum of Rs. 50,000/- as cost of litigation.

3. The complaint was resisted by the OP-1, Municipal Corporation Chandigarh before the District Forum, in which they stated that the owner of the premises was Anil Gulati and as per their office record, the water connection existed in the name of Anil Gulati. Since the original owner had not been made a party in this complaint, the complaint deserved to be dismissed on this ground alone. The OP-1 further stated that water charges to the extent of Rs. 1,51,800/- were required to be paid by the owner/occupier of the property and hence, they were well within their rights to disconnect the water supply to the premises. It has been stated in the reply that only one water connection was running on the said premises as per their office report. However, when the water meter was got checked at the premises, it was found that one more illegal water connection had been installed by the owner/occupier of the premises. The OP had, therefore, levied penal charges of Rs. 1,51,800/- for the said illegal connection and the same were still to be recovered from the owner/occupier. The OP-1 stated that the complaint in question deserved to be dismissed, as the existence of illegal connection had been admitted by the parties. The District Forum, after taking into account the contentions raised by the parties before them, passed an order on 10.03.2011, the operative portion of which reads as follows:-

"i) The complainant shall pay the said amount of Rs. 1,51,800/- to OP-1 within 15 days. After receiving the payment from the complainant, the OP-1 shall resume the water connection in the said premises.

ii) OP-2 shall pay to the complainant Rs. 1,51,800/- along with interest @ 8% p.a. since 13.02.2009 (the date when the first complaint regarding the theft of water was reported to SDO, Chandigarh vide Annexure C-2) and Rs. 5,000/- each as litigation costs to the complainant as well as OP-1 within 15 days from the date when the said payment is made by the complainant to OP-1.

4. The District Forum also stated that if the aforesaid order was not complied with, within the time allowed, the parties would be liable to pay penal interest @

18% for the period indicated in the order. Being aggrieved against this order, the complainant, Narinder Singla, challenged the same by way of an appeal before the State Commission, which had been decided vide impugned order dated 01.09.2011. The appeal was accepted and the following order was passed by the State Commission:-

(a) The order of the District Forum, directing the complainant, to pay the amount of Rs.1,51,800/- to OP-1, within 15 days, and after the receipt of the same, from him(complainant), directing OP-1, to resume the water connection in the said premises being illegal, is set aside.

(b) OP-1, is directed to reconnect the water connection, which was legally installed in the premises of the complainant, within 10 days, on receipt of a copy of the order, without charging Rs.1,51,800/-, or any other amount, not legally due, against the said connection.

(c) OP-2/respondent no.2, shall pay to OP-1, Rs.1,51,800/-, alongwith interest @8% per annum, from 13.02.2009 (the date when the first complainant regarding the theft of water was made to the SDO, Chandigarh vide Annexure C-2, by the complainant), alongwith litigation costs of Rs.5,000/-, within 30 days from the date of receipt of a copy of this order.

(d) In case, OP-2, fails to pay the amount aforesaid, within the stipulated period, alongwith interest, he shall be liable to pay the same, alongwith penal interest @12% per annum, from 13.02.2009 (the date when the first complaint regarding the theft of water was made to the SDO, Chandigarh, vide Annexure C-2, by the complainant), till realization, besides payment of litigation costs of Rs.5,000/-, awarded by the District Forum, to OP-1/respondent no.1."

5. Being aggrieved against the order of the State Commission, the OP-1, Municipal Corporation Chandigarh and the OP-2 tenant Ravi Palta challenged the same by way of the present revision petitions before this Commission. A contention was raised by the Municipal Corporation, at the time of hearing that the Corporation deals with the owners of the premises only, at the time of giving water connection. They had, therefore, rightly raised a demand on the applicant, Narinder Singla and that they had every right to recover their money from him, as he claims to be the owner of the property on the basis of general power of attorney. The learned counsel for the Corporation also stated that admittedly, there was a theft of the water being supplied by the Municipal Corporation and hence, they had every right to recover the charges, including the penal charges for the same.

6. In the revision petition no. 4362/2014, the tenant, Ravi Palta, stated that the impugned order of the State Commission had been passed without giving him an opportunity of being heard. He further stated that the complainant did not come under the definition of consumer, as the water connection had been taken for commercial purpose. He has drawn attention to the order passed by the District Forum, in which, the said forum observed that the complainant had admitted

that he was the owner of the premises as per the general power of attorney and hence, he was required to pay the charges to the Municipal Corporation.

7. I have examined the entire material on record and given a thoughtful consideration to the arguments advanced before me.

8. The admitted facts on record are that the premises in question is owned by one Anil Gulati, but the complainant, Narinder Singla, claims to be the owner of the same, on the basis of a general power of attorney in his favour, executed by the said Anil Gulati. It is also admitted that the complainant Narinder Singla had obtained a water connection from the Municipal Corporation for which, the charges etc. were being paid and there is nothing on record to show whether any payment was outstanding to the Municipal Corporation against that connection. Further, it has not been denied anywhere that Ravi Palta, who is the petitioner in Revision Petition No. 4362/2014 and a tenant in the premises had installed an illegal water connection from the main water supply line of the Municipal Corporation and he was using the said connection for use in his business. In the grounds of the revision petition in Revision Petition No. 4362/2014, Ravi Palta has simply stated that there are disputed questions of facts and law in that case and that the matter did not come under the purview of the Consumer Protection Act, because the connection was for industrial/commercial purpose. The said Ravi Palta has nowhere denied that he was not using water from the main water line of the Municipal Corporation Chandigarh. The version given by the Municipal Corporation Chandigarh also says that an illegal water connection had been installed in the premises and after the checking, they disconnected the same and sent their demand to the complainant/owner, Narinder Singla, asking him to pay the penal charges. The basic point for consideration in the case, therefore, is whether the said charges are to be paid to the Corporation by the complainant Narinder Singla or by the tenant, Ravi Palta, who is stated to be using the water illegally. It may be observed here that Ravi Palta has not been given an opportunity by the State Commission to plead his case, as they dispensed with his service. However, the said Ravi Palta has been heard in the proceedings before this Commission, and this order is being passed, after giving due consideration to the pleas taken by him. There is no need, therefore, to send the matter back to the State Commission for deciding afresh, after giving an opportunity to the said Ravi Palta to plead his case.

9. The District Forum, vide their order dated 10.03.2011, directed the complainant Narinder Singla to make payment to the Municipal Corporation Chandigarh and they also directed that the said amount should be paid by the tenant to the complainant. On the other hand, the State Commission gave a categorical finding that the OP-2, Ravi Palta shall make the necessary payment directly to the Municipal Corporation Chandigarh alongwith litigation cost of Rs. 5,000/- within 30 days of the date of their order. They also directed the Municipal Corporation to reconnect the regular connection, legally installed at the premises of the complainant, without charging the said amount of 1,51,800/-, or any other

amount from him. Looking at the facts and circumstances, it becomes clear that since OP-2, Ravi Palta had been using the water connection from the main supply line of the Municipal Corporation, the said Corporation is fully entitled to recover the amount in question from him and also to take any other action against him including Civil or Criminal proceedings for obtaining water supply illegally for the purpose of his business. The OP-2 has not been able to explain anywhere as to why he did not obtain a regular water connection on his own from the Municipal Corporation. The order passed by the State Commission is, therefore, based on a correct interpretation of the facts and legal principles and the said order does not suffer from any irregularity, illegality or jurisdictional error of any kind. It is held, therefore, that there is no merit in the said revision petitions and the same are ordered to be dismissed and the order passed by the State Commission is upheld. The petitioner, Municipal Corporation, Chandigarh shall take all necessary steps under law for the recovery of the amount from the OP-2, Ravi Palta.