

(2012) 09 NCDRC CK 0033

In the National Consumer Disputes Redressal Commission

Satya Pal Bharti

APPELLANT

Vs

CHAIRMAN , Executive Officer/X.E.N. , Assistant Executive
Officer/S.D.O. , Nand Lal Bharti

RESPONDENT

Date of Decision : 27-09-2012

Acts Referred:

Citation : 2012 0 NCDRC 639 : 2012 4 CPJ 807

Hon'ble Judges : V.B.GUPTA J.

Advocate : SAGAR SAXENA , Naveen Pandey

Judgement

1. IN this revision petition, there is challenge to order dated 30.5.2012 passed by State Consumer Disputes Redressal Commission, Panchkula, Haryana (for short, "State Commission ").

2. BRIEF facts are that complaint was filed by the petitioner/complainant stating that he purchased H. No. 136-A, Model Town, Yamuna Nagar in 1950 and had applied for electric connection which was installed. Wife of petitioner had purchased another plot. Respondent No.4, requested the petitioner for giving house No.136-A to him as a licensee and he would vacate the same as and when demanded by the petitioner. The petitioner started living in another house. Petitioner came to know about an electricity bill in the name of Respondent No.4 of house No.136-A. Petitioner submitted that he got installed the meter in his name in house No.136-A. Petitioner wrote a letter dated 3.2.2005 to SDO Yamuna Nagar enquiring about the electric connection but no reply was given by the respondents/OPs. Petitioner again wrote another letter on 4.7.2006 to the Superintending Engineer but no reply was given by the respondents, The petitioner sought information under the Right To Information Act from the respondents. Respondents, vide letter dated 25.7.2007 informed the petitioner that electric connection No. YT/14/3685 was not traceable. Respondents also informed that Sh. Nand Lal Bharti, brother of the petitioner told that change of name was got done in 1973 but exact date was not known to him. Petitioner submitted that earlier respondent No.4 was posted in UHBVNL as JE and at that

time he in collusion with the Respondents No.1 to 3 got transferred the electric connection of the petitioner in his name fraudulently. Respondent No.4 got transferred the electric connection in his name in collusion with the respondents No.1 to 3 just to grab the house of the petitioner. Thus, there was deficiency in service on the part of the Respondents. Respondents no.1 to 3 took the plea that electric connection bearing account No.YT/14/3685 was released in the year 1950 and change of name of this connection was done in the year 1973, about 34 years ago in the name of Nand Lal and connection at present was running in his name. Thus, there was no deficiency in service on the part of respondents no.1 to 3.

3. RESPONDENT No.4 in its written statement took the plea that respondents no.1 to 3 rightly transferred the electric connection in his name. It is further alleged that he was in actual and physical possession of the property where the electric connection exists in his name. Further, he had filed a civil suit, which was pending for final adjudication pertaining to property No. 136 A, Model Town, Yamuna Nagar, which was owned and possessed by answering respondent and has prayed for dismissal of complaint.

4. DISTRICT Consumer Disputes Redressal Forum, Yamuna Nagar (for short, "District Forum ") vide its order dated 31.3.2010, dismissed the complaint of the petitioner and granted him liberty to file complaint before the Civil Court. Aggrieved by the order of District Forum, petitioner filed an appeal before the State Commission, which dismissed the same, vide the impugned order.

5. THIS is how the matter has reached before this Commission.

6. IT is contended by learned counsel for petitioner that petitioner is a consumer as per Consumer Protection Act, 1986 (for short, "the Act "). It is further contended that petitioner has originally purchased the premises in auction in 1950 and thereafter electricity connection was in his name and the same was never in the name of his father. Further, the issue before the Civil Court is as to who is the owner of the premises and no dispute regarding electricity connection was pending before the Civil Court. The impugned order passed under these circumstances, is without any basis and is liable to be set aside. District Forum in its order has held ; "As per version of the OPs the electric connection bearing account No.YT14/3685 was released in the year 1950 and the change of the name of this connection was done in the year 1973 about 34 years ago in the name of Nand Lal and presently is running in the name of Nand Lal but the respondent has not produced the old record being not traceable. However, they have produced the consumer ledger since 1990, it means the name of Nand Lal has been incorporated in the record of Nigam before 1990, so the intricate question is involved in the present case because it is a family dispute and cannot be decided in a summary procedure. Such type of cases can be decided by the civil court after adopting lengthy procedure on the basis of witnesses. As such without any documentary evidence we cannot come to any conclusion. Hence, the present complaint is hereby dismissed. However, the complainant is at liberty

to file the complaint before the Civil Court to redress his grievances if he desires. On the other hand, if the complainant feels that any fraud has been committed with him by the respondent no.4 in collusion with the respondents no.1 to 3 he can initiate legal proceeding in the appropriate court against them. "

7. THE State Commission, while affirming the order of District Forum, in the impugned order has observed; "The dispute is with respect to electricity connection, which was initially in the name of Devi Dayal Bharti, father of the complainant and OP No.4. The Civil Court is already seized of the matter, where litigation regarding the said connection is pending as to who would succeed. That being so the dispute being inter se heirs of the connection holder could not be decided by the Consumer Forum. Learned District Forum rightly dismissed the complaint of the complainant. "

8. UNDER Section 21 of the Act, this Commission can interfere with the order of State Commission where such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise the jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity. There is no illegality or material irregularity. It is also well settled that under Section 21(b) of the Act, scope of revisional jurisdiction is very limited. Hon "ble Supreme Court in Mrs. Rubi (Chandra) Dutta Vs. M/s United India Insurance Co. Ltd. 2011 (3) Scale 654 has observed ; "Also, it is to be noted that the revisional powers of the National Commission are derived from Section 21 (b) of the Act, under which the said power can be exercised only if there is some prima facie jurisdictional error appearing in the impugned order, and only then, may the same be set aside. In our considered opinion there was no jurisdictional error or miscarriage of justice, which could have warranted the National Commission to have taken a different view than what was taken by the two Forums. The decision of the National Commission rests not on the basis of some legal principle that was ignored by the Courts below, but on a different (and in our opinion, an erroneous) interpretation of the same set of facts. This is not the manner in which revisional powers should be invoked. In this view of the matter, we are of the considered opinion that the jurisdiction conferred on the National Commission under Section 21 (b) of the Act has been transgressed. It was not a case where such a view could have been taken by setting aside the concurrent findings of two Fora ".

9. PETITIONER has not filed even a single document on record to show that electric connection in question, is in his name. No electricity bill at all has been filed by the petitioner to show that he has been making payment of the electricity bills. Moreover, petitioner himself has admitted in para no.3 of its complaint, that electricity bill is in the name of respondent no.4. Further, it is also not disputed by the petitioner that a civil suit in respect of the house where electricity connection is installed, is pending.

10. THUS , no jurisdiction or legal error has been shown to call for interference in the exercise of power under section 21 (b) of the Act, since two Fora below have

given cogent reasons in their orders, which does not call for any interference nor they suffer from any infirmity or revisional exercise of jurisdiction. It is not that every order passed by the For a below is to be challenged by a litigant even when the same is based on sound reasoning.

11. UNDER these circumstances, present petition is without any legal basis and same is hereby dismissed with cost of Rs.10,000.00.(Rupees Ten Thousand Only).

12. PETITIONER is directed to deposit the cost of Rs.10,000.00 (Rupees Ten Thousand Only) by way of demand draft with Consumer Legal Aid Account of this Commission, within four weeks. In case, petitioner fails to deposit the said cost within the prescribed period, then he shall also be liable to pay interest @ 9% p.a., till realization.

13. LIST on 2.11.2012 for compliance.