

(1993) 03 NCDRC CK 0059

In the National Consumer Disputes Redressal Commission

S.D.O, H.S.E.B, REWARI

APPELLANT

Vs

RAM SARUP

RESPONDENT

Date of Decision : 23-03-1993

Acts Referred:

Citation : 1993 0 CPC 374 : 1993 2 CLT 609 : 1993 2 CPJ 699

Hon'ble Judges : S.S.Sandhawalia , S.Kulwant Singh J.

Final Decision : Appeal dismissed with costs

Judgement

1. THIS appeal could not be seriously pressed on behalf of the appellants by their Law Officer Shri Ram Kishan. It therefore, suffices to advert to the facts ad merits with the utmost brevity.

2. THE consumer-respondent Ram Sarup admittedly has a tubewell connection bearing No. BAAG-908. His primal grievance in the complaint was that he had been paying the electricity charges therefore regularly in accordance with the consumption shown by the meter and the last bill paid by him was in May, 1992. However, the appellant department sent a wholly unauthorized and incorrect bill for Rs. 3924.20 paise and despite his protestations to get the same corrected, he get no redress and instead was threatened with the disconnection of the electric supply. On notice being issued, the appellants in their written statement did not deny the broad factual matrix of the allegations. The curious plea however, taken was that the respondent was supplying water to 16 persons ins the village for their houses and therefore instead of charging him at the usual rate for agricultural supply, he was billed on the basis of small power tariff and an amount of Rs. 3824/10 paise was debited to his account on this score alone. Apart from making the somewhat bald assertion the appellants did not choose to lead any evidence in support of their pleas.

The District Forum on the basis of the materials before it, and the submissions made on behalf of the parties, came to the conclusion that no pipe connection exists in the houses of the persons who allegedly took water from the tubewell. It was pointedly noticed that no affidavit or any evidence has been obtained that

respondent was charging anything for the alleged water supply and it was particularly opined that in the rural community, nobody would refuse his neighbours from taking water from a tubewell for drinking purpose merely. Consequently, it held that the levy of charges on the basis of small power tariff was unauthorized and set-aside the same.

3. IN the absence of the Counsel of the appellants Mr. Ram Kishan, the Law Officer, who projected the appeal was singularly unable to pose any serious challenge to the order under appeal. It was half-heartedly argued that the tubewell of the respondent was located away from the village Abadi in the fields. We must confess our inability to appreciate how the location of the tubewell being in the agricultural fields would in any way affect the merits of the present case. Usually if not invariably tubewells for the purpose of agriculture irrigation are located in the very fields which they are intended to serve with water. The respondent's tubewell being so located would not in any way go against or affect his case adversely.

4. A lame grievance was then sought to be made out that the appellant-Board had not been allowed to adduce any evidence in support of its case. It was pleaded that the matter be remanded with an opportunity to do so and a fresh adjudication on merits be ordered. We are unable to appreciate any such plea adversely affecting the successful consumer-respondent. It is common ground that the tubewell connection was given for the agricultural purpose and right up to May, 1992, tariff charge was the confessional one for such a purpose. It is only thereafter that the appellants have arbitrarily slapped higher charges on the basis of small power tariff on the mere allegation that the tubewell was now being used for a commercial purpose. This being the plea, the burden lay heavily on the appellants to establish that in fact there was any change of user or abuse of the agricultural connection by the respondent. As has been already noticed not a title of evidence was led by them on this score. The closest perusal of the record will show that at no stage the appellants who were fully and well-represented by their counsel Shri N.S. Rao, sought to lead any evidence in support of the sketchy averments in their reply. At the appellate stage obviously no grievance can be made of this fact when the appellants or their own volition did not choose to adduce any testimony whatsoever. The District Forum was right in its observation that not even an affidavit has been produced from any one to indicate that any charge was being made from any person for water supply. If at all, the appellants have themselves to be blamed for the total absence of evidence apparently because there was none to produce. In this context, we do not find the least merit in the tenuous claim for the remanding of the case. No other argument was urged. The appeal is therefore, without merit and is hereby dismissed with costs which are assessed at a modest sum of Rs. 300/- only. Appeal dismissed with costs.