

(1998) 02 NCDRC CK 0037

In the National Consumer Disputes Redressal Commission

S.SHAJI

APPELLANT

Vs

FOREST CONSERVATOR

RESPONDENT

Date of Decision : 03-02-1998

Acts Referred:

Citation : 1998 2 CPC 101 : 1998 2 CPJ 360

Hon'ble Judges : P.K.Shamsuddin , K.M.Latha J.

Final Decision : Appeal disposed of

Judgement

1. THIS appeal is directed against the order passed by the District Forum, Kollam in OP No. 508/97. The complainant is the appellant.

2. WE heard the Counsel for the appellant and the respondent. On going through the matter, we find there is difficulty in sustaining the order passed by the District Forum. On perusal of the notification relating to the same, we find within 60 days from the confirmation the bidder had to pay the amount. However Clause (8) provides even in default the Depot Officer will permit the bidder to remove the timber on payment of the amount together with interest at the rate of 18% within 30 days. It also provides even if there is further default, the officer has to allow the timber to be removed within 30 days on receipt of interest at the rate of 24%. In this case it is seen on 8.7.1997 itself, the complainant approached the opposite party and filed application to issue challan. But no challan was issued on 9th and the complainant also went to the office for payment of the money on 9.7.1997 but the officer was not available and the complainant was asked to come on 10.7.1997 and accordingly he went there on that day. But that day happened to be a holiday. On 11.7.1997 he approached the officer but the opposite party said that it would not be possible to extend. These facts have not been denied in the version filed by the opposite party. The District Forum dismissed the complaint saying that the complainant has not availed of the grace period. This view is not correct in the light of the terms and conditions in the notification as indicated above. Even after the expiry of 60 days from the date of confirmation the terms and conditions permit the bidder to pay

the amount within 60 days. If it is paid within 30 days from the expiry of 60 days the bidder has to pay interest at the rate of 18% and if it is paid within 60 days from the due date the bidder has to pay 24%. However it is seen that the complainant approached the second opposite party within the stipulated period. But the officer was not there in the office to receive the money. On the next day happened to be holiday and on 11th the second opposite party should have accepted the money together with interest but that was not done and therefore there is clear deficiency in service on the part of opposite party.

We have asked the Counsel appearing for the respondent whether the timber has already been sold. Learned Counsel submitted that it has not been auctioned. In the circumstances it would be only just and proper to give a direction to the opposite party to permit the complainant to remove the timber on payment of the balance amount together with interest at the rate of 24% on the total balance amount and the extra surcharge if any payable by the complainant. The appeal is disposed of as above. Appeal disposed of. _____