
(1996) 11 NCDRC CK 0053

In the National Consumer Disputes Redressal Commission

TAHASILDAR, PURI

APPELLANT

Vs

BIBHUTIBHUSAN MOHAPATRA OF PURI

RESPONDENT

Date of Decision : 12-11-1996

Acts Referred:

Citation : 1997 1 CPJ 312 : 1997 2 CPR 136

Hon'ble Judges : P.C.Misra , Biswanath Rath , Mrinalini Padhi J.

Final Decision : Appeal allowed

Judgement

1. THIS appeal is directed against the final order passed by the District Forum, Puri-Nayagarh in C.D. Case No. 14 of 1995. The complainants are four in number who filed a joint application before the District Forum alleging deficiency on the part of the Tehasildar, Puri and Sub-Collector, Puri who were impleaded as opposite parties in the said case. The main allegation of the complainants is that the Tahasildar, Puri passed an order on 23.4.90 in Orissa Estates Abolition Case of 1988 for settlement of fair and equitable rent with respect to certain specified lands in favour of each of the complainants and it is alleged that he was required to send the records to the Sub- Collector (opposite party No. 2 before the District Forum) for confirmation of the order whereafter the followup section would have to be taken and the Revenue Inspector would have corrected the records accordingly. It is alleged that no action was at all taken either by opposite party No. 1 or by opposite party No. 2 as a consequence of which the names of the complainants could not be recorded in respect of the lands in question and they have also suffered mentally as no rent was collected from them by the Revenue Inspector. They, therefore, wanted appropriate direction from the District Forum as well as compensation.

2. THE aforesaid opposite parties filed their written version before the District Forum contending inter alia that the case was not maintainable and there was no cause of action for filing the case. THE delay in sending of the records by the Tehasildar to the Sub-Collector and the delay in taking the followup action pursuant to the order passed in the Orissa Estates Abolition case was attributable

to the shortage of staff and pressure of work in the office. The District Forum noticed that the record has been ultimately sent to opposite party No. 2 on 27.7.95 for information during the pendency of the case before the Forum. The District Forum, however, did not record its finding as to whether the case was maintainable before it in spite of the objection taken against maintainability by the present appellants. It held that the appellants are deficient in service which they were statutorily bound to perform. The Forum, therefore, gave directions to opposite party No. 1 to fix the land revenue in respect of the lands in favour of the complainants and issue necessary instructions soon after the order is received from the Sub-Collector. The Sub-Collector, Puri was also directed to dispose of the case at his end and send it to the Tehasildar to take followup action within fifteen days from the date of receipt of the order. The District Forum also directed the Tehasildar to pay Rs. 300/- which includes compensation and cost of litigation. Hence this appeal.

The main question for consideration in this appeal is as to whether the complaint-petition as presented was entertainable. The Orissa Estates Abolition Act provides that an intermediary may make an application for settlement of fair and equitable rent in respect of his estate of which he was in khas possession on the date of vesting. It is stated by the complainants that after such an application was made, the same was allowed directing settlement of rent in respect of different parcels of land in favour of each of the complainant, but the Tehasildar did not send the records to the Sub-Collector for confirmation of the order nor any followup action was taken thereafter in the matter of settlement of equitable rent and no instruction was issued to the Revenue Inspector for collection of the rent so far. All the omissions alleged on the part of the present appellants is in essence the allegation against their non-performance of their official business. The complainants in respect of any of the matter are not consumers as defined in the Act inasmuch as they had neither hired nor availed of services of the present appellants for consideration. In that view of the matter, the grievance of the complainants cannot be said to be a consumer dispute and entertainable by a consumer forum. It is unfortunate that the District Forum without applying its mind and without deciding the question of maintainability entered into the adjudication merits of the case.

3. SINCE the case is not maintainable, the order of the District Forum cannot be sustained. We, therefore, allow this appeal and set aside the impugned order. Appeal allowed.