
(1990) 04 NCDRC CK 0015

In the National Consumer Disputes Redressal Commission

Usha Rani Gupta

APPELLANT

Vs

GENERAL MANAGER, D.E.S.U.

RESPONDENT

Date of Decision : 10-04-1990

Acts Referred:

Citation : 1991 2 CPJ 167 : 1991 2 CPR 429

Hon'ble Judges : Prithvi Raj , B.L.Anand , Avtar Pennathur J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal has been filed against the order dated 17.1.90 passed by the learned District Forum, Delhi.

2. RELEVANT facts of the case are as under : Smt. Usha Rani who is the owner of property No. 74 Sunder Nagar, Delhi, filed complaint before the District Forum alleging that the first floor of the building was let out to M/s. Gujarat State Fertilizers Co. Ltd. (hereafter called the Company) specifically for residential purposes but the Company was unlawfully using the premises for office and commercial purposes thereby using power far in excess of the sanctioned load after unlawfully creating power points; that on account of misuser a fire broke out at the Electric Distribution Boards of the premises on 27.5.88 and that all the Power Metres of the first floor and all circuits of the ground floor were burnt out. The appellant contends that because of the misuser the DESU should have cut off the electric supply of the Company by taking the aid of Schedule VI(d) of the Indian Electricity Act, 1910. On the contrary the DESU replaced the burnt meters at the request of the Company despite the appellants request not to do so, she being the registered consumer. According to the respondents the first floor of the property bearing No. 74, Sunder Nagar was detected as being used for office and the Guest House, and the electric connections installed in the said portion were being misused. This was noticed by the Meter Reader on his visit to the premises for noting down the meter reading on 27.2.86. On further enquiry it was found that against the sanctioned load of 9 K.W. a total connected load of 10 K.W. was being utilised. This was only a marginal increase which could not be attributable

reason for burning of the meters because subsequently load was increased to 13 K.W. which load has not caused any damage to the meters at present installed in the first floor. It is further averred that Schedule VI(d) of the Indian Electricity Act, 1910 empowers them to cut off electric supply in cases where the connections are being misused with excess load but the said provision does not make it obligatory to cut off the supply and put the occupants to inconvenience so long as the nature of the use and the connected load is not found injurious to the supply system. Accordingly as in other cases punitive tariff was imposed against the occupant of the first floor of the building.

The District Forum on an overall appraisal of the matter came to the conclusion that the supply of electricity to the occupant of the first floor by imposing punitive tariff does not interfere with the other supply to the building and taking note of the fact that no alteration or addition has been made in any electric wire and fittings rightly came to the conclusion that the grievance of the appellant in this respect was devoid of any merit.

3. ON a conspects of all the facts of the case, we do not think that any case is made out for interfering in the view taken by the District Forum. This Forum cannot be made a medium for help by a Landlord in putting the tenant to inconvenience by having his electric supply cut off and thus compel the tenant to abandon the tenancy which the present complaint seeks to achieve. The grievance of the appellant in this aspect is wholly misconceived and unsupportable. The other grievance of the appellant that the respondent has charged commercial rates for running a Guest House in the ground floor of the building without any supporting evidence is equally bereft of merit. As per report of the meter reader, it was observed by him during his visit on 23.6.87 for meter reading that all the connections installed at the ground floor and the first floor of 74, Sunder Nagar were under misuse. A notice was sent to the appellant but the same remained unreplyed. Accordingly penal rates were imposed against the ground floor connections as well with effect from 23.6.84. On representations from the appellant received in the respondent's office on 9.8.88, the ground floor connections were put again under domestic tariff with effect from the date of representation i.e. 9.8.88.

4. ON behalf of the appellant it was urged that no notice was served on her in that the notice was not addressed to the registered address of the appellant in the records of the respondent. It is true that in sub para (ii) of para 4 of the grounds of appeal it is so averred but that was not her case in the complaint filed before the District Forum. All that is alleged in para 8 of the complaint is that the alleged notice was never served on the appellant because it was sent to a place where she had never lived. The notice was sent to her on the following address.- "Smt. Usha Rani Gupta, 74 Sunder Nagar It was never the case of the appellant that her registered address with the respondent was "2, Babar Road, New Delhi." as is now sought to be urged in the grounds of appeal. It appears from the perusal of the record that her address with the respondent was 74, Sunder

Nagar, Delhi. At any rate, no useful purpose will be served in demanding the case for a fresh enquiry as the District Forum has granted substantial relief to the appellant in ordering that commercial rates be charged only from the date of inspection i.e. with effect from 23.6.87 when the misuser was found. The ground floor connections have again been put under domestic tariff with effect from 9.8.88. The appellant cannot escape penal tariff in having used the installed meters for a purpose other than the one for which meters were installed. Lastly it was vehemently contended on the basis of letter dated 9.12.87 (at page 27 of the appeal file) from Mr. Laurent Contini, First Secretary to the Ambassador of France in India to the address of the attorney of the appellant that the premises were in his tenancy and were not used as Guest House. The said letter does not militate against the findings of fact recorded at the time of meter reading on 23.6.87 by the meter reader that the power was being used for in excess of the sanctioned load necessitating penal tariff. In view of our discussion above, we find no ground to interfere with the findings of the District Forum. The appeal accordingly is dismissed. Appeal dismissed.