

(2016) 05 NCDRC CK 0095

In the National Consumer Disputes Redressal Commission

Case No : 1857 of 2015

VIJAY SHANKAR SINGH

APPELLANT

Vs

DIVISIONAL FOREST OFFICER & 6 ORS.

RESPONDENT

Date of Decision : 20-05-2016

Acts Referred:

Citation : 2016 3 CPR 276

Hon'ble Judges : V.K. Jain, Anup K Thakur

Advocate : Sanjeev Kumar Varma

Judgement

1. The Forest Department of Government of Bihar published a notice in the newspaper, for auction of several trees which were lying towards the road and Bandh area etc. The petitioner also submitted a bid in the auction held on 27.06.1996. The bid was given for second class Sagwan timber. The said bid was accepted by the Forest Pramandal Officer, Begusarai. The grievance of the complainant/petitioner is that after acceptance of the bid, which he had given for a sum of Rs.1,10,696.50/-, he found that in fact the said timber/wood was not teakwood. The complainant lodged a protest in this regard with the concerned Department but no relief was granted to him. Being aggrieved, he approached the concerned District Forum by way of a complaint.

2. The complaint was resisted by the respondents. It was stated in the reply that as per the terms of the bid, the participants were advised to satisfy themselves with the quality and quantity of the wood before participating in the auction. It was further stated that the complainant took delivery of the wood without any protest and later alleged that it was not Teakwood.

3. In the District Forum, there was diversion of opinions. The President of the District Forum directed dismissal of the complaint whereas two members directed refund of the bid amount with compensation etc.

4. Being aggrieved from the order passed by the majority of the District Forum, the respondents approached the concerned State Commission by way of an

appeal. Vide impugned order dated 06.04.2015, the State Commission allowed the appeal filed by the respondents and consequently dismissed the complaint. Being aggrieved, the petitioner/complainant is before us by way of this revision petition.

5. The notice published by the respondents in the newspaper clearly shows that the wood proposed to be sold by auction also included Teakwood (Sagwan). The bid form submitted by the complainant clearly shows that he had given bid for purchase of second grade Teakwood (Sagwan). A perusal of the letter dated 09.09.1996 written by Assistant Conservator of Forests, Begusarai to the Conservator of Forests, Begusarai shows that the wood delivered to the

complainant/petitioner formed part of lot no. 19, which was seized by the Forest Department. The said letter further shows that from the outer appearance, the said wood appeared to be like Teakwood and presuming it to be Teakwood, an entry was accordingly made in the stock register. It further shows that the said stock of wood was sold and purchased as Teakwood in the auction held on 27.06.1996. The Assistant Conservator of Forests therefore, requested the Conservator of Forests to get the said wood examined at his level.

6. The letter dated 05.11.1996 sent by Divisional Forest Officer to the Conservator of Forests, Circle Purnia confirms the aforesaid report of the Assistant Conservator of Forests and it is clearly stated in the said letter that the wood delivered to the complainant was in fact not Teakwood though from outer appearance, it looked like Teakwood.

7. It is thus evident that the respondents sold wood which, from outer appearance, looked like but in fact was not Teakwood. This happened under a wrong impression formed by the Forest Department on the basis of the outer appearance of the wood. Though the complainant/petitioner was expected to check the quality as well as the quantity of the wood before giving his bid in the auction, considering that the said wood was stated to be and looked like Teakwood, he could not have merely, by having a look at the said wood come to know that in fact it was not Teakwood but was some other wood which in appearance, looked like Teakwood. Therefore, it is obvious that the complainant as well as the respondents bonafidely acting under a mistaken belief that the Teakwood for which bid was given by the complainant/petitioner was Teakwood though in fact, it was not so.

8. The petitioner/complainant cannot be made to suffer on account of the mistaken impression formed by the Forest Department as regards the nature of the wood which was put to auction. Since the bid given by the petitioner/complainant was for Teakwood, the respondents should either have delivered second class Teakwood in the same quantity or it should refund the amount paid by the complainant alongwith appropriate interest. Since the respondents have used the money of the petitioner/complainant for its own purposes, it should also pay compensation in the form of appropriate interest on that amount.

9. For the reasons stated hereinabove, the impugned order is set aside and the respondents are directed to refund the amount of Rs.1,10,696.50/- to the complainant alongwith compensation in the form of simple interest @ 10% per annum on the aforesaid amount from the date it was deposited till the date on which it is refunded alongwith interest in terms of this order. This refund would be made subject to the petitioner/complainant returning the wood which the respondents have delivered to him, to the respondents. The payment will be made only after receiving the wood and verifying its quantity as well as after confirming that it was the same wood which the respondents had delivered initially to the complainant. The revision petition stands disposed of.