

(1992) 12 NCDRC CK 0014

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

ARJUN DEV

APPELLANT

Vs

H.S.E.B. PANCHKULA

RESPONDENT

Date of Decision: Dec. 23, 1992

Citation: 1993 1 CPJ 364

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

Final Decision: Appeal dismissed

Judgement

1. THIS appeal is directed against the order of the District Forum, Ambala dated 11th of September, 1992 dismissing the complaint of the appellant by expressing his inability to adjudicate upon the merits of the case and relegating him to his remedy by way of a civil suit. THIS matter is now rendered virtually infructuous because of the admitted position that the appellant has subsequently in fact preferred a suit in the Court of the Senior Sub Judge, Ambala on the 12th of November, 1992 for seeking an identical relief. It, therefore, suffices to notice the facts in their barest out-line.

2. ARJAV Dev, complainant-appellant has an electricity connection No. T-24/252 for his tubewell at his village Balapur in Tehsil Ambala. His son Subash Chand also had an electricity connection No. T-24/16 for a Chakki installed at or nearby the said tubewell. It was the appellant's case that his son resided separately from him and personally he had always paid all the electricity charges due from him for his tubewell connection. However, his son was a defaulter in the payment of electricity charges to the tune of Rs. 5,209/- and the allegation was that in October 1991 Shri Om Prakash, Sub-Divisional Officer of the respondent Board directed the appellant

to settle the account of his son and he agreed thereto. Consequently, he arranged for the amount of Rs. 5,209/- and paid them over to the official aforesaid, but he refused to issue any receipt, there- for even when demanded to do so by the appellant. Later, when he visited the office of the aforesaid Shri Om Parkash on 28th of October, 1991, he made further claims of illegal gratification for the restoration of his son's connection which the complainant declined to accede to. It was alleged that on the following day the said official visited the complainant's premises and disconnected the supply of electricity to his tube well as well and also removed the electric-motor therefrom. Aggrieved thereby, the appellant was compelled to knock at the door of the District Forum.

In resolutely defending the complaint, the respondent Board took the firm stand that the electric connection of the appellant's son Subash Chander has been permanently disconnected way back on the 21st of November, 1990 and the meter has also been removed on account of non-payment of charges as high as a sum of Rs. 8,106/- by him. It was further explained that Subhash Chander was found committing theft of electricity apparently from the appellant's tubewell and in this connection a First Information Report No. 302, dated the 8th of November, 1991 was lodged under Section 379 I.P.C. and the relevant provisions of the Electricity Act against the appellant's son. It was categorically denied that the Sub-Divisional Officer of the appellant had ever received any amount of Rs. 5,209/- or had demanded any bribe from the complainant.

In support of his case. the appellant stepped into the witness box and examined two more witnesses besides the documentary evidence on which the reliance was placed. In rebuttal the respondent- Board also examined two witnesses and a number of documents, the authenticity of which was not challenged. It would appear that the matter did not rest there and the complainant pressed for examining more witnesses and bringing a mass of evidence on record.

3. THE District Forum noticed that in view of the contentions stand taken on both sides and the mass of evidence brought on the record and the claim of adducing more evidence, as well, the issue was one which involved such complicated questions of law and fact which were not possible to be adjudicated upon in the somewhat summary consumer jurisdiction. Relying on the binding precedent of the National Commission in I (1991) CPJ 78 (NC) "M/s. Special Machines, Karnal v. Punjab National Bank & Others" the appellant as already noticed was left to his remedy by way of a Civil Suit, if so advised. -

Mr. Jaswant Jain, the learned Counsel for the appellant was initially a little vehement in projecting the present appeal. Somewhat implausibly the primal grievance voiced was with regard to certain subsequent bills which the respondents are alleged to have raised against the appellant even after the decision under appeal. It was contended that the sins of the appellant's son were being vested on his father and the latter's electric connection which was entirely independent had been wrongfully disconnected. Much ado was raised on the ground that the departmental officials had attempted to extort bribes from the appellant.

4. AS is somewhat manifest that the submissions made were somewhat irrelevant and entirely divorced from the record. It goes without saying that the grievance about any subsequent bills cannot possibly be the subject-matter of this appeal. Nor can issues of the payment or extortions for bribe be adjudicated adequately in the consumer jurisdiction as has been rightly so held by the District Forum. Indeed, the submissions of the learned Counsel for the appellant tended to make the confusion worse confounded by attempting to add further grist to an already complicated and contentious issue from which the District Forum had rightly stayed his hands. It is elementary that where such a discretion is exercised by the District Forum, it is not to be easily interfered, particularly when the matter appears to us as squarely covered by the ratio in *M/s. Special Machines, Karnal v. Punjab National Bank & Others*" (supra) and in innumerable decisions subsequently.

It becomes unnecessary to elaborate the matter further because the wind was entirely taken out from the sails of the appellant when Mr. Ajai Lamba, the learned Counsel for the respondent produced on the record the copy of the plaint which the appellant has filed in the Court of Senior Sub Judge, Ambala later on the 12th of November, 1992. Therein interim relief had also been sought and the respondents have been duly issued summons to defend the same. A certified copy of the First Information Report dated the 8th of December, 1991 with regard to the theft of electricity has also been placed on the record. Faced with the aforesaid documentary evidence, it was not denied on behalf of the appellant by Mr. Jaswant Jain that his client had already resorted to the Civil Courts for relief. The learned Counsel had, therefore, little or nothing to contend thereafter.

For the foregoing reasons, this appeal must fail and is hereby dismissed. However, we decline to burden the consumer-appellant with any costs. Appeal dismissed.