

(2003) 07 NCDRC CK 0076

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

S.K.ANAND

APPELLANT

Vs

Delhi Vidyut Board

RESPONDENT

Date of Decision: July 4, 2003

Citation: 2003 4 CPJ 30

Hon'ble Judges: Lokeshwar Prasad , Rumnita Mittal J.

Final Decision: Appeal dismissed

Judgement

1. THIS appeal filed under Section 15 of the Consumer Protection Act, 1986 (hereinafter referred to as "the Act") is directed against the order of District Forum (North-West), Shalimar Bagh, Delhi, dated 28.8.2001, passed in Complaint Case No. 3168/2001 - entitled Shri S.K. Anand v. Delhi Vidyut Board.

2. THE relevant facts, in brief, are that the appellant Shri S.K. Anand had filed a complaint before the District Forum on the ground that he had applied to the respondent for the release of I.P. connection and had completed all the necessary formalities required and thereafter had been allotted electric connection bearing K. No. ILP-503-132473 for a sanctioned load of 120 HP. THE appellant had also duly deposited the amount of Rs. 70,513/- as directed by the respondent for the release of the above said connection. Despite having made the necessary payment and completing the required formalities, the said connection was not energized by the respondent on the ground that another connection installed in the name of M/s. Goenka Steel and Alloys, in the same premises, had been disconnected for non-payment of dues and as such the appellant was required to submit an affidavit and undertaking to the effect that he was not the beneficiary of the said connection

existing earlier in the name of M/s. Goenka Steel and Alloys. It was the case of the appellant that he could not be held responsible for paying the arrears of dues in respect of another connection in the name of another consumer and that the respondent was bound to honour the agreement executed for the energization of the connection allotted in favour of the appellant. It was also stated that a civil suit had been filed by the appellant earlier on the same cause of action as the present complaint. However, later the appellant had filed a complaint before the District Forum praying for directions to the respondent for energising the connection already sanctioned in his favour, as well as, to pay damages amounting to Rs. 5,00,000/- to the appellant.

The complaint, filed by the appellant, was resisted by the respondent and it was stated by the respondent in its reply/written version, filed before the District Forum, that the connection sanctioned in favour of the appellant firm had been cancelled and the amount of Rs. 70,413/- deposited by him had been duly refunded vide cheque dated 4.10.1996 by registered post but the same had been returned back undelivered. Furthermore, the appellant had been requested to complete the necessary formalities vide letter dated 6.8.1996, but the respondent had failed to do the needful and as such the connection sanctioned in his favour could not be energised. Furthermore, the appellant had moved the Civil Court for energization of the connection in question which was dismissed by the Appellate Court on 20.9.1999 with directions to the appellant to complete the commercial formalities. Since the respondent had failed to comply with the said order, there was no deficiency in service on the part of the respondent. Furthermore, huge arrears amounting to Rs. 4,88,08,718.42 were outstanding against the electric connection existing in the same premises in the name of the firm M/s. Goenka Steel and Alloys and the appellant in order to avoid the payment of the said arrears was deviously seeking a fresh connection in the same premises, which could not be allowed in the circumstances of the case. It was accordingly prayed that the complaint filed by the appellant, being devoid of merit was liable to be dismissed with costs.

The learned District Forum on the basis of the material on record dismissed the complaint, filed by the complainant, with costs of Rs. 5,000/- under Section 26 of the Act.

3. AGGRIEVED by the aforesaid order, the appellant has preferred the present appeal.

We have carefully perused the documents/material placed on record, as well as, have heard the arguments advanced on behalf of the appellant at length. However,

we could not have the benefit of the arguments on behalf of the respondent as none was present on behalf of the respondent at the stage of arguments. The only grievance of the appellant in the present appeal is that the learned District Forum was not justified in burdening the appellant with exorbitant cost of Rs. 5,000/- in the circumstances of the case. So far as the said contention of the appellant is concerned it is an admitted fact between the parties that the appellant had filed a civil suit on the same cause of action and for the same relief. In the appeal filed by the appellant against the dismissal of his suit it was observed that the appellant was liable to pay the dues in respect of the electric connection existing in the premises in question in the name of M/s. Goenka Steel and Alloys Ltd. The appellant instead of complying with the said directions filed a complaint before the District Forum under the Act. Vide impugned order it was observed by the learned District Forum that the complainant had not come to the Forum with clean hands having suppressed true and material facts relating to the dismissal of the civil suit filed by the appellant on the same cause of action before the Civil Judge, Delhi and also concealing the fact regarding cancellation of electric connection allotted to him. In view of the fact that the appellant had already availed of a remedy by way of filing a civil suit and also that he had approached the District Forum for the same relief merely because he was not successful in obtaining the desired relief before the Civil Court. We are inclined to uphold the view taken by the learned District Forum that tendency to file false and frivolous complaints under the Act should be discouraged with a heavy hand. We are fortified in our above view by a decision of the Hon"ble National Commission in case entitled M/s. R.S. Metals Pvt. Ltd. v. The New India Assurance Company Ltd., reported as I (1993) CPJ 1 (NC)=1986-95 Consumer 1537 (NS), wherein it was held as under :

"It is evident that the appellant-complainant has misused the Consumer Protection Act and the machinery set up under the Act to prosecute a complaint on the basis of false and fabricated evidence. This is reprehensible and must be discouraged strongly. This is particularly important because the Consumer Protection Act provides cheap and quick redressal of genuine consumer"s grievances and it is a matter of paramount public importance that no person should misuse the remedies available under this Act for lodging false complaints on the basis of fabricated evidence and harass the persons who supply goods or render services. We, therefore, set aside the order of the State Commission and dismiss the complaint filed by the appellant. The appellant shall pay a sum of Rs. 5,000/- to the respondent as costs."

4. THUS in view of the above observations of the Hon"ble National Commission the costs imposed on the appellant in the instant case are fully justified especially keeping in view the fact that the appellant had misrepresented the facts and had tried to evade the payment of the legitimate dues of the respondent amounting to several crores of rupees, pending against the existing connection. His mala fide intention is further proved by the fact that the appellant is not willing to furnish an affidavit and execute an undertaking to the effect that he was in no way the beneficiary of the existing connection against which dues of several crores are outstanding.

In the circumstances we feel that the present appeal is also virtually an abuse of process of law and as such deserves to be dismissed with heavy cost. Accordingly, the present appeal is dismissed with costs amounting to Rs. 5,000/-. The appellant is directed to pay the costs imposed by the learned District Forum vide impugned order together with further cost imposed by this order within 30 days of the receipt of the order, failing which the respondent will be at liberty to file an application under Section 25/27 of the Act as the respondent may be advised. The present appeal, filed by the appellant, stands disposed of in above terms. Appeal dismissed.