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(1993) 05 NCDRC CK 0019

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

RAMESH CHANDRA MOHAPATRA	APPELLANT
Vs	
MANAGING DIRECTOR, O.S.F.C.	RESPONDENT

Date of Decision: May 20, 1993

Citation: 1994 1 CPJ 296 : 1994 3 CPR 321

Hon'ble Judges: S.C.Mohapatra , R.N.Panigrahi , J.Patnaik J.

Final Decision: Complaint dismissed

Judgement

1. COMPLAINANT took a shed from Orissa State Financial Corporation (for short "the Corporation). This shed was possessed by M/s. Hindustan Hardware situated at Khurda Industrial Estate. Since the said organisation did not comply with the terms, possession was taken by the corporation. It was decided that the cost of the land and building would be Rs. 2,19,000/- and 10% of the sum would be paid immediately by complainant who paid the amount as per his offer dated 28.2.88 and 31st March, 88. COMPLAINANT was intimated that the balance amount shall be repaid along with additional loan to be sanctioned for machinery as per the debt service coverage ratio to be worked out in the memorandum for the additional loan on which interest at different rates shall be charged. COMPLAINANT took possession but the machinaries of Hindustan Hardware were not lifted for a long time by the Corporation. As a result, complainant suffered as he could not utilise the shed, although he had to pay heavy interest on the loan advanced by the Corporation. This is grievance of the complainant alleging deficiency in service and negligence.

2. OPPOSITE parties have stated their case jointly. They stated that complainant approached the Civil Court for injunction making the selfsame allegations and the suit has been dismissed. Thus the reliefs which could have been obtained from the Civil Court cannot any further be granted by the redressal agency under the Consumer Protection Act.

While we appreciate the difficulties of the complainant on account non-removal of the machineries of M/s. Hindustan Hardware, we cannot render any assistance to him for redressal of his grievance. It is true that the Corporation ought to have delivered vacant possession. A shed which cannot be utilised for any purpose, is no delivery of possession. Complainant was not advised properly in the Civil Court and got his grievance finally decided. Therefore, while dismissing the complaint, we hope that the opposite parties shall consider the case of the complainant to waive the interest for the period for which the machineries of M/s. Hindustan Hardware were not removed from the shed by them if not being obsessed by the dismissal of the suit in the Civil Court and dismissal of this complaint if a representation is made by complainant to that effect. Complaint dismissed.