(1994) 04 NCDRC CK 0037

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

SPECIAL TAHSILDAR (DRS) SIVAGANGA		APPELLANT
	Vs	
P. ANDIAPPAN		RESPONDENT

Date of Decision: April 25, 1994

Citation: 1996 1 CPJ 136 : 1996 1 CPR 475

Hon'ble Judges: S.A.Kader , R.N.Manickam J.

Final Decision: Appeal allowed

Judgement

1. THE appeal is against the order of the District Consumer Disputes Redressal Forum, Sivagangai, dated 24.12.92 in O.P. No. 69/92. THE Opposite Party, Special Tahsildar, Sivaganga, formerly Tahsildar, Thiruppattur, is the Appellant.

2. THE Appellant has leased out in public auction the right to cut and remove the trees on 27.7.90. THE Complainant was the successful bidder f or Rs. 3,010/- and has also paid the entire amount of Rs. 3,010/- and Sales-tax of Rs. 241/-. Due to the delay in issuing the order, the Complainant could not cut and remove the trees and was damnified. Hence this complaint claiming damages in issuing the order of confirmation.

The claim was resisted by the Opposite Party.

The District Forum directed the Opposite Party to pay compensation in the sum of Rs. 6,000/-, in default to pay a fine of Rs. 5,000/-. It is this order that is challenged in the appeal.

3. IT may at once be pointed that the default service fine of Rs. 5,000/- order by the District Forum is totally untenable. IT has been repeatedly pointed out by this Commission that such a composite order cannot be passed under Section 24 of the Act. This portion of the order must fail forthwith.

The preliminary question, which arises for consideration is whether the Complainant is a consumer within the meaning of the Section 2(1)(d)(ii) of the Consumer Protection Act. Under this Section, a person is a consumer, who hires or avails of the services of the Opposite Party for consideration. By no stretch of imagination can the Complainant, who has been the successful bidder in the auction, be said to have hired or availed of the services of the Tahsildar, Sivaganga for any consideration in the matter of the auction sale of the trees. The Complainant is not, therefore, a consumer. The remedy of the Complainant, if any, is before the Competent Court of Civil Jurisdiction. The complaint is totally misconceived.

4. IN the result, the appeal is allowed, the order of the District Forum is set aside and the complaint is dismissed, but without costs throughout. Appeal allowed.