

COMMISSIONER, KOZHIKODE CORPORATION Vs SETHUNATHAN P. POOLAKKOTTAMMAL HOUSE

Court: NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Date of Decision: Sept. 2, 1994

Citation: 1995 1 CLT 421 : 1995 1 CPJ 110

Hon'ble Judges: P.K.Shamsuddin , K.Balakrishnan Nair J.

Final Decision: Appeal allowed

Judgement

1. IN this appeal the opposite party who is aggrieved by the order passed by the District Forum, Kozhikode in O.P. 1396/92 is the appellant.

2. THE complainant applied for approval of a plan for construction of shop rooms paying a fee of Rs. 112/on 31-12-1990. THE complainant

alleged that the opposite party refused to approve the plan despite all the efforts made by the complainant. On 17-12-1991 when he contacted the

clerk and the Building Inspector concerned attached to the office of the opposite party he was told that the plan had been approved and it would

be sent to him immediately. Believing the representation he collected building materials, and since he did not receive the approved plan, he was not

able to start the construction of the work resulting in monetary loss to the tune of Rs. 10,000/-. He sent a registered letter to the opposite party on

24-9-1992 but there was no response. It is in those circumstances, complaint was filed claiming compensation of Rs. 10,000/-.

The opposite party filed version denying the allegations in the complaint. According to him the application of the complainant was rejected under

Rule 9(1) Of the Kerala Building Rules 1984 and intimation was given to him on 30-11-1991.

The District Forum found that there is deficiency in service in not giving proper intimation of rejection of application and that by reason of this the

complainant had suffered damages and in that view passed an order directing to pay Rs. 500/- to the complainant.

3. IN this appeal, learned Counsel for the appellant submitted that this is not a matter which falls within the purview of Consumer Protection Act.

Learned Counsel argued there is no hiring of service of the opposite party for consideration and payment of fee for processing the application

cannot be considered as consideration for rendering the service. We are inclined to accept the contention raised by the learned Counsel. Remedy

of the complainant is to file an appeal against the order passed by the opposite party under Rule 9 (1) of Kerala Building Rules, 1984. IN the

circumstances we allow the appeal, set aside the order of the District Forum and dismiss the complaint. Appeal allowed.