

(1995) 05 NCDRC CK 0054

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

NARINDER SINGH

APPELLANT

Vs

PUNJAB LAND
DEVELOPMENT And
RECLAMATION
CORPORATION LTD.

RESPONDENT

Date of Decision: May 4, 1995

Citation: 1995 2 CLT 328 : 1995 2 CPC 356 : 1995 3 CPJ 591 : 1995 3 CPR 118

Hon'ble Judges: A.L.Bahri , R.L.Gupta J.

Final Decision: Complaint partly allowed

Judgement

1. XIT is a peculiar case where the complainant is in appeal against the order of the District Forum, Ludhiana dated January 20, 1995. His complaint was dismissed with no order as to costs. The ground for dismissal of the complaint is that the complaint is not covered by the definition of the consumer as provided under Section 2(1)(d) of the Consumer Protection Act.

2. THE complainant purchased a motor vehicle van PUI 7431 from the opposite-party/ respondent. Punjab Land Development and Reclamation Corporation Ltd. in open auction conducted on May 17, 1989. As per terms of the auction, the entire sale price of the van was paid by the complainant. THE delivery of the van was given on May 26, 1989. In spite of several letters written by the complainant, the necessary documents of the van (Registration Book, No Objection Certificate, Affidavit etc.) were not handed over to the complainant to enable him to get the vehicle transferred. In this manner, the complainant claimed damages in the

complaint filed before the District Forum to the tune of Rs. 57,725/-. THE claim was contested by the Corporation inter alia raising preliminary objection that the District Forum had no jurisdiction to adjudicate the matter in dispute as the case was not covered under the provisions of the Act. THERE was no intention on the part of the Corporation to delay delivery of the necessary documents. Within a reasonable time, the Registration Book, No Objection Certificate and Affidavit were arranged, which were required for transfer of ownership of vehicle in the name of the complainant. Though the case remained pending before the District Forum for sufficient time, the parties did not produced their affidavits. However, some documents were produced by the complainant alongwith the complaint and on the basis of the pleadings and documents produced the decision was given.

In para 8 of the complaint, it was mentioned that the complainant suffered loss due to non-supply of requisite papers by the Corporation. Reference was made to the Government rates of hiring vehicles for the period June, 1989 onwards. Earlier it was Rs. 90 per day and it was raised to Rs. 170/- per day. It was mentioned that the loss was because the aforesaid vehicle could only be given on hire to the BSF @ Rs. 170/- per day. Earlier the rate was Rs. 90/- per day. In corresponding para 8 of the written statement, it was denied that the complainant had suffered any loss. The transfer of ownership was a procedural matter. The complainant could give the vehicle on hire if so desired during the period the case for transfer of name was pending in the office of the District Transport Officer, Ropar. It is on the assertion of the complainant himself in para 8 above that the District Forum came to the conclusion that the goods were purchased for commercial use on hiring the same and thus the complainant was not covered under the definition of consumer as defined under Section 2(1)(d) of the Act.

We have heard the learned Counsel for the parties and we are of the view that the approach of the District Forum holding the complainant to be not a consumer is not correct. The word consumer has been defined as under:- 2(1)(d) "Consumer" means any person who:- (i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or (ii) "(hires or avails of) any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any deficiency of such services other than the person who "(hires or avails of) the service for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person: "(Explanation".-For the purpose of Sub-clause (i) "Commercial purpose" does not include use by a consumer of goods bought and used by him exclusively for the

purpose of earning his livelihood, by means of self-employment).

3. AS far as Clause 1(i) is concerned, the person purchasing goods for commercial purpose or for resale would not be a consumer as defined. However, such is not the position with respect to hire services as contemplated under Sub-section (ii) or Section 2(1)(d). AS far as sale of the van is concerned, it was complete on payment of price and delivery of the van. Learned Counsel for the respondent relied upon the decision in Ouseph Varghese v. Kunjoonju Alekutty and Others, 1994 (1) CLJ 206 that transfer of the vehicle is complete on delivery of the vehicle. However, the matter of change in the name in the Registration Book is procedural, which is requirement under the Motor Vehicles Act. AS far as transfer of the van in the present case is concerned that was complete on payment of the price and delivery of the van as stated above. But when a motor vehicle is transferred, a duty is cast on the seller to deliver the Registration Book, Affidavit, No Objection Certificate etc. which are pre-requisites for getting the vehicle transferred from the Registering Authority under the Motor Vehicles Act. It is only to that limited extent that in transfer of a vehicle rendering of service is also part thereof. Though procedural may be but it is necessary to complete the title.

Learned Counsel for the appellant has argued that in fact the complainant is a farmer and he purchased the van for his own use and assertion made in para 8 of the complaint was only the manner suggested for assessment of damages on the Government rates. On perusal of the pleadings we find that there is no assertion made by the complainant that he is a farmer or an agriculturist or that the van was purchased for agricultural purposes or for personal use as such. Be that as it may since we are of the opinion that in the case of transfer of motor vehicle not only that goods are passed, it is also the duty of the seller to render service in the matter of handing over the necessary documents to get the vehicle transferred under the provisions of the Motor Vehicles Act in his own name and if there was any delay unexplained on the part of the seller and this caused harassment, the complainant who would be a consumer as defined under Section 2(1)(d), would be entitled to compensation. Such compensation need not necessarily be for non use of the vehicle in the form of damages as pleaded. In the present case admittedly there was delay and in spite of several letters being written i.e., 15.6.1989, 20.7.1989, 1.2.1990 and 26.7.1990. It was only after a year that on 30th July, 1990, that the Corporation wrote to the complainant to collect the documents. For this period there was obviously harassment and the complainant is to be compensate for that. On account of deficiency of service which caused harassment a sum of Rs. 5,000/- is considered reasonable in the facts of the present case. For the reasons recorded above, the

order of the District Forum is set aside and the complaint is partly allowed with the directions to the respondent to pay a sum of Rs. 5,000/- to the complainant within a period of two months from today. This amount will cover the costs of litigation as well. Complaint partly allowed.