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WEST BENGAL STATE ELECTRICITY BOARD Vs SUHASARIA OIL And RICE MILLS

Court: NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Date of Decision: Sept. 20, 1994

Citation: 1995 1 CLT 641 : 1995 1 CPJ 279

Hon'ble Judges: A.K.Bhattacharjee , Sunil Kanti Kar , S.Dutta J.

Final Decision: Revisions dismissed

Judgement

1. THESE revisional applications namely S.C. Case Nos. ,234/Rev. of 1994, 235/Rev. of 1994, 261/Rev. of 1994, 277/Rev. of 1994 and

278/Rev. of 1994 have been filed by the West Bengal State Electricity Board as petitioner against M/s. Suhasaria Oil & Rice Mills who is

complainant in five complaint cases respectively bearing Nos. P.C. Nos. 50 of 1994, 44 of 1994, 59 of 1994,68 of 1994 and 70 of 1994 pending

before the Ld. District Forum, Bankura. The said five complaint cases are filed by the complainant on the issue of inflated bills of electricity

consumption of different months and/or demand for higher security in relation to a same meter Nos. 910150 and S-310100 installed at the site of

the complainant/ respondent. The said five revisional petitions have been filed by the petitioner/W.B.S.E.B. challenging the interim orders passed

by the District Forum, Bankura in those complaint cases as such the said five revisional petitions are dealt in by this single judgment.

2. THE Ld. District Forum passed an interim order on 19.5.94 in P. Case No. 50 of 1994 for a limited period upto 21.6.94 directing the

petitioner/W.B.S.E.B to maintain the electric line of the complainant/respondent against payment of Rs. 38,000/- by the complaint within 24.5.94

as against bill for the month of April, 1994 for Rs. 51,573/-. Similarly in P.C No. 44 of 1994 it was directed by the District Forum to maintain the

electric line of the complaint upto 28.4.94 upon payment of Rs. 52,000/- within 28.4.94 as against bill for the month of March, 1994 for Rs.

73,619/-, in P. Case No. 59 of 1994 it was directed to maintain the electric line of the complainant upto 14.7.94 upon payment of Rs. 40,000/-

by 14.7.94 as against bill for the month of May, 1994 for Rs. 64,500/-, in P. Case No. 68 of 1994 it was directed to maintain the electric line of

the complainant upto 16.8.94 in relation to a complaint about demand for higher security money of Rs. 24,298/- in addition to the existing security

money as per notice dt. 23.6.94 issued by the petitioner/W.B.S.E.B. and P. Case No. 70 of 1994, it was directed to maintain the electric line upto

16.8.94 upon payment of Rs. 40,000/- by 11.8.94 as against bill for the month of June, 1994 for Rs. 64,025/-.

The main contention of the petitioner/ W.B.S.E.B. is that the Consumer Redressal Forum cannot pass any interim order as per provisions of the

C.P. Act, 1986 and to that effect Mr. Nayak the Ld. Lawyer appearing on behalf of the petitioner before us cited various decisions of different

Courts and also of National Commission in support of his contention, similarly Mr. Pal the Ld. Advocate appeaing on behalf of the

complainant/respondent cited various decisions of the different Courts in support of his contention. Before entering into discussion of the different

decisions cited by both the parties and the arguments and counter arguments made by the respective parties we like to discuss the fact and back

ground of the case for which said interim orders were passed by the Ld. District Forum.

The two meters bearing meter Nos. 910150 and S-310100 are installed at the site of the complainant/respondent for catering electricity to its

factory. Admittedly the meters are out of order and do not function. It is apparent from the consumption bills of the undisputed period that the

charges for consumption of electricity prior to disputed period were within range of Rs. 40,000/- on average per month. It is also apparent from

the conduct of the petitioner/W.B.S.E.B. that there was a threat of disconnection of the electric line of the complainant/respondent in the event of

non-payment of the disputed bills under challenge in those said complaint cases as a result of which it would render the workmen of the

complainant-firm who are about 150 in number unemployed and put them into uncertainty to get back their jobs after adjudication of the dispute

upto final stage including an appeal. In the aforesaid circumstances, the Ld. District Forum passed the interim order in the said complaint cases

considering the prima facie case, balance of convenience and irreparable loss to be caused not only to the complainant but also to the workmen

involved in it.

3. MR. Nayak, the Ld. Lawyer of the petitioner/W.B.S.E.B. cited certain decisions in support of his case such as Morga Stanley Mutual Fund v.

Kartik Ch. Das, reported in 1994 (2) CTJ 385 pronounced by Supreme Court, National Diary Development Board v. Consumer Protection

Council & Ors. reported in II (1992) CPJ 427 (NC). The New India Assurance Co. Ltd. v. R. Venkateswara Raw reported in 1993 (1) CPR

105 both pronounced by Hon''ble National Commission and an unreported Judgment of Calcutta High Court in the case of W.B. State Electricity

Board v. Laxmi Ice Plant Industries & Ors. and so on.

Mr. Pal, the Ld. Lawyer of the complainant/respondent cited certain decisions in support of his case such as M.P.E.B. and Others v. Sm.

Basantibai reported in AIR 1988 SC 71, Monohar v. Seth Hiralal reported in AIR 1962 SC 527 a Full Bench decision in the case of Kihota

Hollohan v. Zachilla reported in AIR 1993 SC 412, two unreported Judgments in CC No. 1059 of 1994 in the case of C.M.C. v. Pratima Sari &

Selection and the case of Pradip Chatterjee.

4. IN earlier occasion in S.C. Case No. 171/ Rev. of 1994 between W.B.S.E. Board v. Rajendera Prasad Shah we have thoroughly discussed

the case of Morgan Stanley Mutual Fund v. Kartik Ch. Das reported in 1994 (2) CTJ. 385 which we repeat it here over again.

The Ld. Advocate of the appellant has strongly relied upon the Judgment in the case of Morgan Stanley Mutual Fund (supra) pronounced by the

Supreme Court on mistaken view of law and fact of the said case. In the case of Morgan Stanley the Hon''ble Supreme Court considered only 4

clauses as stated in paragraph 23 of the said case i.e. clauses (a), (b), (c) and (d) of Sub-section 1 of Section 14 of the Consumer Protection Act

but the clause (e) being amended provisions of the Consumer Protection Act was not considered in said judgment. The said clause (e) under Sub-

section 1 of Section 14 is re-produced here as below:-

to remove the defects or deficiency in service in question.

That apart there are as many as another 4 clauses i.e. (f), (g), (h) and (i) have not been considered by Supreme Court. The said commission to

consider the new clause (e) is presumably due to failure on the part of the Ld. Advocate appearing on behalf of the respondent to draw the

attention of their Lordships at the time of hearing of the case. Particularly the clause (e) of Sub-section-1 of Section 14 specifically empowers the

Consumer Dispute Redressal Forum to remove the defects or deficiency in service in question, obviously the duty is cast upon the"" Consumer

Disputes Redressal Forums to preserve the property in status-quo without waiting for right to be finally established.

5. WE observe in Morgan Stanley''s case that Their Lordships while discussing the powers of the Consumer Disputes Redressal Forum only

confined themselves in 4 clauses (a), (b), (c) and (d) of Section-1,4 and Their Lordships had no occassion to consider clause (e) of Section 14(1).

Moreover we are of opinion that Ld. Advocate of the petitioner/ W.B.S.E.B. has also misconstrued the purport and import of the said Morgan

Stanley''s case, paticularly Their Lordships'' observations were that Calcutta District Forum entertained a case which does not fall within submit of

the Consumer Protection Act, secondly the interim order passed by the Calcutta District Forum was without consideration of the balance of

convenience, thirdly, the principle of granting exparte ad-interim injunction as laid down in the Morgan Stanley''s case by their Lordships have not

been followed and fourthly mat the exparte ad-interim order of injunction granted by the Calcutta District Forum was neither communicated to the

Appellant/Opposite Party nor any copy of the application was served upon it. Paragraph 24 of the Morgan Stanley''s case reads as follows:- ""A

careful reading of the above discloses that there is no power under the act to grant any interim relief or even as adinterim relief only a final relief

could be granted if the jurisdiction of the Forum to grant relief is confined to the 4 clauses mentioned under Section 14, it passes our apprehension

as to how as ad interim injunction could ever be granted disregarding even a balance of convenience"". Their Lordships therefore made the

aforesaid observation based on four clauses of Section 14 of the Act.

6. TO our humble views a careful reading of Morgan Stanley''s case it reveals that it does not prevent to grant of interim injunction or ad-interim

injunction even without reiving occassion to their Lordships to consider clause (e) of Sub-section 1 of Section 14 which has opened the flood gate

in respect of powers and jurisdiction to the Consumer Dispute Redressal Forum. It is to be noted that in paragraph 19 in answering question No. 4

in the said case, Their Lordships have laid down guiding principles for granting exparte injunction only under exceptional circumstances. The

factors which should weigh with the Court in the grant of exparte injunction are as follows:-

(a) whether irreparable or serious mischief will ensure to the plaintiff; (b) whether the refusal of ex-parte injunction would involve greater injustice

than the grant of it would involve; (c) the Court will also consider the time at which the plaintiff first had notice of the act complained so that the

making of improper order against a party in his absence is prevented; (d) the Court will consider whether the plaintiff had acquiesced for some time

and in such circumstances it will not giant exparte injunction; (e) the Court would expect a party applying for ex-parte injunction to show utmost

good faith in making the application; (f) even if granted, the exparte injunction would be for a limited period of time;"" (g) General principles like

prima facie case, balance of convenience and irreparable loss would also be considered by the Court.

It is also well settled principle that injunction under inherent power is not confined under Order 39 or that it is not exhaustive. Apart from it, the

Court of judicial authority has ample inherent power to issue injunction ex-debit justice for protection and security of the subject matter of the suit

or to prevent multiplicity of the proceeding. It is also the well settled principle that Court has inherent power to issue temporary injunction in

circumstances not covered by the provisions of Civil Procedure Code, if it is of opinion that exigency of the circumstances and the interest of

justice require the issue to such interim order and the Harilal reported in AIR 1962 Supreme Court page 527, but before granting any interlocutory

injunction, it must be followed the Rules guiding it which are summarised as follows:-

(1) Applicant has a prima facie case to go to trial; (2) That protection is necessary from that species of injury known as irreparable before the legal

right can be established; (3) That the mischief or inconvenience likely to arise from withholding injunction will be greater than which is likely to arise

from granting it; (4) Lastly that the grant of injunction must be in aid and assistance to the principal relief claimed in the proceeding;

The fulfilment of the tests to grant injunction as stated above is required before granting any interlocutory exparte ad-interim order or interim order

in any proceeding placed before any judicial forum. In injunction in aid of plaintiffs" right all that the Court has usually to consider whether the case

is so dear and free from objection on equitable ground that it ought to interfere to preserve property in statusquo without waiting for the right to be

finally established. In Morgan Stanley"s case in was further observed as follows:

(1) that an application for allotment of shares cannot constitute goods; (2) propesctive investors is not a consumer under Section 2(1)(d) of the

Consumer Protection Act; (3) Issuing of shares is not a practice relating to the carrying on of any trade; (4) The appellant, M/s. Morgan Stanley"s

does not trade in shares; (5) The Consumer Protection Forum has no jurisdiction whatsoever in the matter; (6) The Consumer Forum have as such

no power to issue injunction as per four clauses (a), (b), (c) and (d) of Section 14(1) duly considered in the case; (7) The exparte injunction

generally be granted only under exceptional circumstances; (8) Normally cases against company should be filed only where the Registered Office

of the Company situated etc.

13. In Morgan Stanley"s case the motive of the complainant was ex-facie malafide as it appears from his conduct; inasmuch as complaint was filed

on 4.1.1994 and interim order was obtained on 5.1.94 exparte while Morgan Stanley"s growth units were scheduled to be opened from 6.1.94

inspite of advertisement and hoardings published on 18.12.93 and the complainant/respondent having notice of it came at the last moment before

the Calcutta District Forum and obtained the said exparte interim order without jurisdiction and in violation of the principle laid down for granting

interim order causing thereby the irreparable loss to the appellant.

7. IN the facts and circumstances of the case the Hon''ble Supreme Court being annoyed with the entire affair discouraged the grant of interim

order by the Consumer Disputes Redressal Forum as such without having any occasion to consider the clause (e) of Sub-section 1 of Section-14

of the Consumer Protection Act which has opened a flood gate of powers to Consumer Redressal Forums. But the Hon''ble Supreme Court in

Morgan Stanley''s case observed that the interim order could only be granted under the principleslaid down in the said case.

In this context, we discuss the decision in the case of Manorama Tiwari v. State Govt, of Rajasthan reported in II 1992 CPJ 427 (NC) referred to

by the petitioner/W.B.S.E.B. in which the ratio laid down by Hon''ble National Commission is that the relief which cannot be granted under

Section 14(1) of the C.P. Act it cannot be granted by interlocutory order. We are also of same view that the relief which should be granted in final

adjudication of the dispute by us as per provisions of Section 14(1) of the Act it could be granted at the first instance by interlocotory order to

preserve the property in dispute in status-quo which is in aid and assistance of the principle relief claimed by way of removing the defects in goods

and deficiency of service. The judicial authority cannot sit with its eyes shut in such circumstances where interlocutory order is so exigent and allow

the proceeding to go infructuous or open an outlet for multifarious proceedings. In our opinion the observation in the said case made by the

Hon''ble National Commission goes to support the case of the complainant/respondent.

8. THE decision in the case of the New India Assurance Co. Ltd. v. R. Vanketeswara Rao reported in 1993 (1) CPR 105 cited by the

petitioner/W.B.S.E.B. was pronounced by the Hon''ble National Commission on 2.11.92 prior to the amendment of the Consumer Protection Act

inserting clause (e) under Section 14(1) of the said Act as such the Hon''ble National Commission had no occasion to consider the power vested

with the Redressal Forum under clause (e) of Section 14(1) of the said Act. So we are of opinion, the ratio decided in the said case of the New

India Assurance Co. Ltd. (supra) and other decisions referred to in the revisional petitions by the petitioner/ W.B.S.E.B. which were decided

earlier to the amendment have no application in the present case.

The reference made to a decision in the case of Andhra Pradesh State Electricity Board and Others v. M/s. Andhra Cement Ltd. reported in AIR

1991 A.P. 150 by the petitioner, we observe that the ratio in the said case has in no manner any application in the facts and circumstances of the

present case. In the said case of A.P.S.E.B. allegation was non-payment of arrears of consumption charges due to bad financial condition of a

consumer but in the instant case, the dispute about inflated bills due to non-functioning and disorder of the meters in question. Herein the instant

case, the subject matter of dispute is inflated bill not the inability of the consumer to pay the consumption charges due to bad financial condition.

Ld. Counsel appearing on behalf of complainant/respondent referred to a decision in the case of M.P.E.B. and Others v. Smt. Basantibai reported

in AIR 1988 Supreme Court 71 where Their Lordships held that when the allegation has been raised by the consumer about the correctness and

faulty meter the electricity board cannot issue supplementary bill or threaten disconnection of supply of electricity until the dispute is adjudicated by

the Electrical Inspector. Relying on the said decision Ld. Counsel argued that when the meters in question are admittedly out of order as per

admission under ground No. (a) of paragraphs 10 in the Revisional Application, the petitioner/W.B.S.E.B. cannot raise the bill even for the

disputed period of defunct meter as per law and in such circumstances the disputed bills under challenge in the aforesaid complaint cases are ex-

facie illegal and bad ones and the complainant/respondent cannot pay such supplementary bills raised by the petitioner/W.B.S.E.B. which are

exfacie inflated and in such circumstances threat of disconnection of the electric line must be guarded by appropraite interim order by the Judicial

authority.

9. AS regards unreported decision in the case of W.B.S.E.B. v. Laxmi Ice Plants Industries and Others (CO. No. 495 of 1994) where a Division

Bench of Hon''ble High Court consisting of Justice N.K. Mitra and Justice B. Panigrahi held that the Consumer Redressal Forums have no power

to pass any interm order as per law, to counter the said unreported decision of Hon''ble High Court, Ld. Counsel appearing on behalf of

complainant/respondent cited another two unreported decisions one pronounced by the Hon''ble Chief Justice sitting with Hon''ble Justice Suhas

Ch. Sen in the case of Calcutta Municipal v. Pratima Sari and Selection (CO. No. 1059 of 1994) confirmed the interim order passed expart by the

State Commission in extreme exigent circumstances and another pronounced by a Division Bench of Hon''ble High Court consisting of Hon''ble

Justice Mukul Gopal Mukherji sitting with Hon''ble Justice AShok Kr. Chakraborty similarly confirmed the interim order passed by the State

Commission in the case of Pradip Chatterjee v. West Bengal State Electricity Board.

10. IN view of the said divergent views of Calcutta High Court we preferably can accept the decisions of the two Division Benches as cited above

one presided over by the Hon''ble Chief Justice and another presided over by Hon''ble Justice Mukul Gopal Mukherjee as we have no scope to

refer this divergent views to a still larger bench.

In the aforesaid context, we point out that in view of the new clause (e) provided in Amendment Act of 1993 under Sub-section 1 of Section 14 if

the Consumer Dispute Redressal Forum is to remove the defects or deficiency in service in question then the interim order to preserve the property

in status-quo is necessary considering the exigency of the situation and circumstances otherwise the whole object and purpose of the proceeding

will be frustrated. In this connection it was referred to a decision of constitutional Bench of the Hon''ble Supreme Court consisting of Lalit Mohan

Sharma, M.N. Venkatachaliah, J.S. Varma, K. Jayachandra Reddy and S.C. Agarwal (JJ) in the case of Kihota Hallohan v. Zachillus reported in

AIR 1993 Supreme Court 412 where their Lordships have held that the purpose of passing the interlocutory order is to preserve in status-quo the

rights of the parties, so the proceeding do not become infructuous by any unilateral overt acts by one side or the other during its pendency.

In the said case of Kihota Hallohan (supra) it was circumstanced that during the interlocutory stage the constitution bench was pursuaded to make

certain interlocutory orders which addressed as they were to the speaker of the House (though in a different capacity as an adjudicatory forum

under the tenth schedule) engendered complaint of disobedience culminating in the filling of petitions for initiation of proceeding of contempt against

the speaker. It was submitted that when the very question of jurisdiction of the Court to deal with the matter was raised and even before the

constitutionality of paragraph-7 had been pronounced upon, self-restraint required that no interlocutory orders in a sensitive area of the relationship

between the legislature and the Courts should have been made. Their Lordships held that the purpose of interlocutory order is to preserve in

status-quo the right of the party, so that the proceedings do not become infructuous by any unilateral overt acts by one side or the other during its

pendency. One of the contention urged was as to invalidity of the amendment for non-compliance of the proviso to Articles 368(2) of the

Constitution. It has now been unanimously held that paragraph-7 attracted the proviso to Article 368(2). The interlocutory orders of this case was

necessarily justified, so that no landslide changes were allowed to occur rendering the proceeding in effective and infructuous.

11. IN light of the said decision in the case of Kihota Hollohan (supra) read with Judgment of Morgan Stanley''s case, particularly observation

made in paragraph 19, we are of opinion that there is no bar to grant interim or interlocutory order where justice demands it and exigency arises

after due consideration of the tests of granting interim or ad-interim order discussed in Morgan Stanley''s case.

It was further argued that in original proceeding there is no power to grant an interim order whereas in the Appellate Forum it has such power to.

grant an interim order on the issue of competency and jurisdiction Consumer Disputes Redressal Forum. The said submission is somewhat unheard

of or are fallacious because the Consumer Protection Act as such does not specify any provisions in specific language for grant of interim order

either in original complaint petitoin or by the Appellate Forum, then similar question of powerless or incompetency arises when the Appellate

Forum under the Consumer Protection Act passes any interim order staying operation of the impugned order in the appeal or revision or grants

stay in the execution which is obviously an interim order and if the Appellate Forum has got any right and power to pass interim order to maintain

the property in status-quo, then it is not intelligible to us why the District Forum in original proceeding before it would be debarred to apply same

right and power to .preserve the property in status-quo by passing an interlocutory or interim order. So the said views that the District Forums

where the original proceeding is arted shall have no power to grant any interim order whereas the Appellate Forum have such power although the

act itself does not whisper on that point are not acceptable to us being somewhat absurd proposition and such discrimination can never happen in

jurisprudence, or such rule of convenience cannot be applied.

12. EVEN we see that in Criminal Procedure Code there is no provision for granting any interim order but as the grant of interim order is an

inherent and discretionary power of the Court, the Criminal Courts also grant such interim order staying the investigation of a crime in various cases

as will be evident from the various decisions of the different High Courts and Supreme Court and from the Judgments of the Session Courts and

magistrate Courts.

In the aforesaid context, we once again pass our opinion that Consumer Redressal Forum can pass an interim order where justice demands and

the exigency of situation so warrants to pass it in order to preserve the right of the parties in status-quo, particularly in view of Supreme Court''s

Judgments which are binding laws of land.

In the instant cases the malafide and mischievous motive of the peutioner/W.B.S.E.B. is apparent inasmuch as the threat of disconnection of

electric line of the complainant are so clear that any delay would result in disconnection of the supply line causing thereby such irreparable loss to

the complainant as well as to the workmen of the complaint''s unit that it could not be repaired by money compensation. Moreover it was

suggested from the Ld. President of this Commission to the petitioner/W.B.S.E.B. to furnish an undertaking to maintain the electric line of the

complainant without disconnection until adjudication of the disputes but said suggestion was turned down by the petitioner/ W.B.S.E.B.

13. SO the interim orders passed by the District Forum, Bankura, considering the strong prima facie case made out by the complainant, the

balance of convenience which tilts towards the complainant and that protection is necessary from the species of injury known as irreparable before

his legal right can be established and the mischief or inconvenience likely to arise from withholding injunction would be far greater than which is

lilkely to arise from granting it are quite just and fair and we do not find any illegality or irregularity in it.

14. IT is also to be noted that by the interim orders passed by the District Forum it has not prejudiced to the least the right and contention of the

petitioner/W.B.S.E.B. in any manner and it would not affect its rights to recover its claim if it would accept interim payments based on average

consumption of the undisputed period in the event of their success in the cases.

Thus we dispose of all the revisional cases by dismissing those on contest but without any order as to the cost.

The District Forum, Bankura would dispose of the complaint cases with utmost expedition.

15. THESE five revisional applications deal with a common question of law, namely, if a District Forum can issue an interim order in a proceeding

under the Consumer Protection Act. The same point of law was raised in another case (SC 171/R/94) which was decided by an order dated

17.8.94 and I gave a dissenting view. My learned brother Prof. Kar has given an analysing and learned discourse on the various aspects of the

question but as it directly conflicts against a Supreme Court Judgment I am con strained to express a dissenting opinion on the more or less similar

grounds discussed in the earlier order.

I appreciate that an interim order has its own force in a judicial or a quasi judicial adjudication if justice so demands. The question is really not the

propriety of such an order, but its tenability in the context of the different provisions of the Consumer Protection Act, 1986.

16. THE real problem concerns the interpretation of the judgment passed by the Supreme Court in Morgan Stanley Mutual Fund v. Kartick Das

reported in (1994) CTJ 385 (S.C.) (CP). As in the earlier Revision Case Mr. Kar has expressed that the aforesaid Supreme Court Judgment did

not refer to the amended provisions of Section 14 of the Consumer Protection Act since it quoted only clauses (a) to (d) of Sub-section (1) of the

said Section (the amended Section was enlarged with the addition of four more clauses). According to the reasoning of Mr. Kar, the newly

inserted clause (e) in Section 14 gives a Consumer Disputes Redressal Forum the power to pass an interim order. It is necessary to examine how

far this reasoning is correct and if it be correct, whether it is sufficient to ignore the Supreme Court''s Judgment, Prof. Kar has referred to several

other judgments, some for and some against the propriety of passing an interim order in a proceeding under the Consumer Protection Act, but as

these judgments were passed by the High Courts or National Commission, We have to consider the judgment of the Supreme Court only as the

judgment of the said Court is binding on all Courts in view of Article 141 of the Constitution of India.

Section 14 of the Consumer Protection Act provides that if, after the proceeding conducted under Section 13, the District Forum is satisfied that

the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint

about the services are proved, it shall issue an order to the Opposite Party directing him to do one or more of the things enumerated in clauses (a)

to (i), clause (e) referred to by Mr. Kar reads as follows:-

(e) to remove the defects of deficiencies in the services in question.

Formerly there were only four such clauses out of which clauses (a) to (c) relate to defects in goods only and clause (d) relates to goods or

services in relation to which an order for monetary compensation could only be awarded if the consumer suffered any loss or injury due to the

negligence of the Opposite Party. Plausibly a deficiency in telephone service or in the service of supply electric energy, if such deficiency was by

way of disconnecting a telephone line or an electric line, an order for compensation was of no real help to a consumer. Hence clause (e) was

inserted by amendment. But the procedure for passing an order in respect of any of the items mentioned in clauses (a) to (i) has not been changed.

Thus even if any direction concerning clause (e) is to be given the District Forum has to complete the proceeding under Section 13 of the Act. In

other words no direction including a direction to remove the defects or deficiencies in services can be given by a Forum (or for that matter by a

State Commission hearing a complaint) until it has served the notice on the Opposite Party, has completed the procedure under clauses (c) to (g)

of Section (i) of Section 13 and has considered the evidence brought by the parties. So the introduction of clause (e) does not enlarge the scope of

Section 14 and thereby bypass the procedure laid down in Section 13. So Mr. Kar''s reasoning to sidetruck the Supreme Court''s order does not

appear to be correct.

Mr. Kar has also referred to the discussion of the Supreme Court regarding the points to be considered before allowing an ex parte injunction.

This discussion is in answer to Q. No. 4 mentioned in paragraph 19 of the Judgement in Morgan Stanley Mutual Fund"s Case. Q. No. 4 is as

fallows:-

What are the guiding principles in relation to the grant of an ad-interim injunction in such areas of the functioning of the Capital Market and public

issues of the Corporate Sectors and whether certain Venue restriction clauses" would require to be evolved judicially as has been done in cases

such as Sanchaita"s case etc.?

17. THE Court has thereafter proceeded to discuss the points which a Court should bear in mind while granting a temporary injunction under

Order No. 39, Rules 1 and 2. But a District Forum is not a Court within the meaning of the Civil Procedure Code and Order 20 is also not

applicable here. Actually the Supreme Court has cautioned the Courts to follow the principles enunciated by it while dealing with a prayer for

temporary injunction in a suit. Actually a suit was filed in Tis Hazari Court for a temporary injunction order over the same matter before a Sub

Judge (vide paragraph 4 of the judgment) and an injunction was granted. At the end of paragraph 22 of the judgment the Supreme Court has made

the context of its observations in this regard clear. THE said paragraph reads as follows:-

Invariably suits are filed seeking to injunct either the allotment of shares or the meetings of the Board of Directors or again the meeting of the

general body. THE Court is approached at the last minute. Could injunction be granted even without notice to the respondent which will cause

immense hardship and administrative inconvenience? It may be sometimes difficult even to undo the damage by such an interim order. THErefore,

the Court must ensure that the Plff. comes to Court well in time so that the notice may be served on the defendant and he may have his say before

any interim order is passed. THE reasons set out in the preceding paragraphs of our judgment in relation to the fact which should weigh with Court

in the grant of an ex parte injunction and the rulings of this Court must be borne in mind.

Clearly injunctions in regular suits have been referred to in the above lines.

18. IN Section 24 of the judgment the Supreme Court has observed as follows:-

24. A careful reading of the above discloses that there is no power under the Act to grant an interim relief or even an ad interim relief. Only final

relief could be granted. If the jurisdiction of the Forum is confined to four clauses mentioned under Section 14 it passes our comprehension as to

how an interim injunction could be granted disregarding even the balance of convenience.

I have already discussed that the addition of clause (e) in Section 14 has not altered the procedure to get the relief under the said clause. So even if

the reliefs mentioned in Section 14 were misquoted it did not pave the way for "passing" an interim order. The reference to the granting of the

injunction disregarding even the balance of convenience only means that the interim order of injunction which was not permissible under Section 14

of the Act could not be granted even in a suit for non-consideration of the balance of convenience. In other words, the order was bad not only in

procedure but also on merits.

Apart from the procedural bar as explained by the Supreme Court, the orders passed by the lower Forum here cannot be said to be intrinsically

bad. If a huge amount of bill is suddenly raised by the Electric Company or the Telephone Deptt., the aggrieved party must rush to the Consumer

Disputes Redressal Forum. Can he not get any interim relief on reasonable basis? If he is compelled to pay the entire amount how is his grievance

redressed? An order for payment of a portion of the bill does not really affect the right of the Company to realise the bill which in the long run be

due to it. In my opinion, therefore, the Act should be suitably amended to provide for interim reliefs of this nature in the interest of justice.

19. WITH the above words I hold that revisional applications should be allowed. Revisions dismissed.