

B. Buchi Reddy Vs. D. Anitha

B. Buchi Reddy Vs. D. Anitha

SooperKanoon Citation : sooperkanoon.com/1107853

Court : Andhra Pradesh State Consumer Disputes Redressal Commission
SCDRC Hyderabad

Decided On : Oct-29-2012

Judge : Mr. R. Lakshminarasimha Rao, Honourable Member & Mr. Thota Ashok Kumar, Honourable Member

Appeal No. : F.A.No.645 of 2012 Against C.C.No.25 of 2011 District Forum
Ranga Reddy

Appellant : B. Buchi Reddy

Respondent : D. Anitha

Judgement :

Oral Order: (Sri R.Lakshminarasimha Rao, Honble Member)

1. The opposite party being proceeded exparte in the complaint, has filed appeal contending that the dispute involved in the matter is not consumer dispute and that the appellant is not served with any notice in the complaint which he came to know on service of notice in the execution proceedings. It is contended that the order passed by the District Forum is against the principles of law.

2. The respondent filed complaint stating that she entered into construction agreement with the appellant for construction of house in her plot bearing number 71 situate at Ambedkar Nagar, Jillelliguda, Hyderabad on 4.03.2010 for consideration of `4,10,000/-. As per the terms of the agreement, the appellant

agreed to complete the construction of the house within two months from the date of agreement. The respondent paid the amount of `4,10,000/- and an excess amount of `40,000/- to the appellant and the appellant failed to complete the construction of the house. The respondent lodged complaint before the Police, Meerpet before whom the appellant promised that he would complete the construction work of the house within one month therefrom. The appellant failed to keep his promise. The respondent requested the appellant in the month of December, 2010 to complete the construction of the house and she also addressed letter reiterating therein her request for completion of the construction of the house.

3. The appellant was set exparte.

4. The respondent filed her affidavit and the documents, ExA1 to A4. She also filed the affidavit of her neighbour M.Sukkamma.

5. The District Forum allowed the complaint on the premise that the appellant had not completed the construction work of the house and the respondent is entitled to refund of Rs.15,000/- from the appellant.

6. The point for consideration is whether the order of the District Forum suffers from misappreciation of facts or law?

7. The parties are not at dispute in regard to execution of agreement for construction for the purpose of construction of the house in the plot bearing number 71 belonging to the respondent. It is not disputed that the appellant was not served with the notice in the usual course. The service of notice to the respondent was published in daily newspaper which the learned counsel for the appellant has contended that the appellant had not read nor has he knowledge of the circulation of the paper at the place where the appellant resides.

8. The appellant is challenging the dispute on facts and law. As the notice was not served on him in usual course, we deem it fit to give him opportunity to contest the claim of the respondent. However, the envelope which was addressed to the appellant was returned and the appellants address mentioned in the agreement on

which the notice was sent to him by the District Forum would lead to the inference that the appellant has been negligent in informing the respondent about his address and his objection to the claim. The right accrued to the respondent by virtue of the order of the District Forum has to be considered while remanding the matter. In the circumstances, we are inclined to hold the respondent entitled to costs of Rs.3,000/- which the appellant is liable to pay it to her before filing written submission before the District Forum. The District Forum is requested to receive the written submission of the appellant subject to payment of costs to the respondent.

9. In view of the rival contentions of the parties and for the foregoing reasons, we deem it a fit case to give opportunity to both parties to proceed with their case and accordingly remit back the matter to the District Forum to enable the parties to adduce evidence in support of the rival contentions. The District Forum shall proceed in accordance with law.

10. In the result, the appeal is allowed by setting aside the order of the District Forum. The complaint is remitted back to the District Forum with a direction to dispose of the matter within three months from the date of receipt of the records. The parties shall appear before the District Forum on 15.11.2012. The parties shall bear their own costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com