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Court : Maharashtra State Consumer Disputes Redressal Commission SCDRC Nagpur

Decided On : Jan-28-2014

Judge : The Honourable Mr. B.a. Shaikh, Presiding Member &Amp;amp; the Honourable Mr. N. Arumugam, Member

Appeal No. : First Appeal No. A/06 of 193

Appellant : Jameel Khan and Others

Respondent : The Chief Engineer, M.S.E.B. and Others

Judgement :

B.A. Shaikh, Presiding Member:1. This appeal is preferred against the order dtd.30.11.2005 passed in Consumer Complaint No. CC/04/163 by Addl. District Consumer Forum, Nagpur by which the complaint has been partly allowed.2. The case of the complainants as set out in the complaint in brief is that they purchased agricultural lands bearing survey No.29/2 and 29/4 from Daulatrao Raghoji Narole on 01.02.2001 under a common sale-deed. There is a well in the said land and electric motor pump of 5 Hp is installed on the said well. The electric connection was given by the opposite parties (for short œthe O.Ps?) in the name of Daulatrao Raghoji Narole for irrigation of the said lands. The complainants after purchasing the said lands, planted 400 trees of orange, 100 trees of sweet lime and 50 trees of lemon in that land of survey No.29/2 and 150 trees of sweet lime in the land of survey No.29/4 in the year 2001. They irrigated the said trees with the help of said

electric motor pump for four years. However, thereafter wire of the poles by which the electric supply was given by the O.Ps was stolen away and the some poles had also fallen down. The complaint was immediately made to the O.Ps, who also lodged report with the Police. But, electric line was not restored for more than three months and hence electric supply was discontinued during that period. The 515 trees have been, therefore, dried up for want of water. The complainants, therefore, claimed total compensation of Rs.10.00 Lacs towards the loss sustained by them from the O.Ps as specified in the complaint. They also claimed compensation of Rs.2.00 Lacs towards mental harassment.3. The O.Ps filed their Written Version and resisted the complaint. They raised preliminary objection that the complaint is not maintainable as the electric connection was not transferred in the name of the complainants. They denied that 515 trees were dried up due to non-supply of electricity. They admitted that electric wire of main line of six poles was stolen away and some poles had also fallen down and therefore, the complainants informed the O.P.No.3 on 27.04.2004 and O.P.No.3, therefore, lodged report with the Police. The service connection was granted to respondent - Daulatrao Raghoji Narole in the year 1989 for 3 Hp motor only. The use of the said electric connection for 5 Hp motor by the complainants is thus illegal. The electric connection was given to land of survey No.29/2, admeasuring 1 hector only and therefore, water of the well of that land could not be supplied to the adjoining land of other cultivators. The O.P. Nos. 2 and 3 have taken immediate action to restore electric supply by erecting new line. The water of well of survey No.29/2 was not sufficient to irrigate even one acre of land. Moreover, only 270 trees can be planted in one hector of land and 270 trees cannot be irrigated with the help of 3 Hp electric motor pump. One road having width of 15 feet is also passing through that land and hardly 200 trees, therefore, could be planted in land of survey No.29/2. The complainants could have irrigated his land with the help of Oil Engine. Moreover, in the 7/12 Extract of the land produced by the complainants, crop of Soya-bin is shown as cultivated in 0.98 Hector of the land. Therefore, no such trees as claimed by the complainants could be planted in that land, admeasuring 0.98 Hector. Hence, it is submitted that the complaint may be dismissed.4. The Forum below, after considering the evidence brought on record and hearing advocates of both the parties, came to the conclusion that the electric

supply was disconnected on 27.04.2004 as electric wires were stolen away and it was restored after a period of four months and therefore, it amounts to deficiency in service provided by the O.Ps to the complainants. However, it found that the O.P. No.1 in cross-examination admitted that out of 515 trees, the labours could save 235 trees by supplying water to them. Moreover, it also found that the Soya-bin crop was taken in the said land by the complainants. Therefore, the Forum below did not grant any compensation on account of claim made by the complainants due to drying up of the trees. It granted compensation Rs.10,000/- to the complainants due to non-supply of electricity for more than four months and thereby causing harassment to the complainants. Moreover, it also granted Rs.1,000/- to the complainants towards cost of complaint.5. Feeling aggrieved by that order, the original complainants have preferred this appeal. Learned advocates of both the parties filed their respective Written Notes of Arguments. We also heard them and perused the papers placed before us by both of them.6. Learned advocate of the original complainants / appellants herein argued that there was sufficient evidence before the Forum below to prove that the complainants had sown 515 trees in their lands and they were four years old and they were dried up due to non-supply of water as the electric supply was disconnected for four months. He further submitted that though the Forum below held that there is deficiency in service provided by the original O.Ps to the complainants, it did not grant any amount of compensation to the complainants towards loss sustained by them due to the drying up of trees for want of water. He, therefore, urged that the compensation as claimed by the complainants may be awarded by modifying the impugned order.

7. On the other hand, the learned advocate of the respondents / original O.Ps. supported the impugned order and submitted that in 7/12 Extract of the land of survey No.29/2 it is specifically shown that it is admeasuring 1.0 Hector and out of it, Soya-bin is cultivated in 0.98 Hector of land. He, therefore, submitted that in remaining 0.02 Hector land no such trees as claimed by the appellant could be planted. He further submitted that in one hector of land, hardly 200 trees can be planted and as the complainants No.1 has admitted in cross-examination that the labours saved 235 trees by supplying water to them, it can be said that the trees standing in survey No.29/2 were not dried up for want of water. He, thus,

submitted that the appeal may be dismissed.8. We find substance in the aforesaid submission of the learned advocate of the respondent herein. 7/12 Extract of the land survey No. 29/2 to which electric supply was given by the O.P No.1, shows that during the years 2001-02 to 2004-05 Soya-bin was cultivated in 0.98 Hector of land and remaining land of 0.02 hector was vacant. The area of the said land is only 2 hectors. Therefore, it is very difficult to accept that the large number of trees were planted in the crop of Soya-been of the said land.9. If it is accepted that such large number of trees were planted in that land then also it is admitted by the original complainants No.1 in his cross-examination that 237 trees were saved by his labours by supplying water to them. There is no evidence of expert showing that any such tree had dried up for want of water in that land. Moreover, the electric supply was given for 3 Hp motor pump only in land bearing survey No.29/2 of Village Bhivapur. However, the complainants had installed 5 Hp electric motor pump in that well and therefore, installation of 5 Hp motor pump was unauthorized. The complainants cannot claim compensation on account of non-supply of electric connection to such unauthorized use of electric pump of 5 Hp by them.10. We, thus, hold that in the absence of any cogent evidence in support of the claim, the Forum below has rightly not granted compensation to the complainants as claimed by them. Hence, appeal deserves to be dismissed. Accordingly, we proceed to pass the following order:- ORDER

i. The appeal is dismissed.ii. No order as to cost in this appeal.iii. Copy of this order be supplied to the parties free of cost.iv. Original record and proceedings of the complaint be sent back forthwith to the Addl. District Forum, Nagpur.

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