

REPORTABLE**IN THE SUPREME COURT OF INDIA****CIVIL APPELLATE JURISDICTION****CIVIL APPEAL NO(S). 3578 OF 2019
(@ SLP(C) No(s) 29994 of 2016)****TUKARAM S/O SADASHIV CHAUDHARI****Appellant(s)****VERSUS****THE EXECUTIVE ENGINEER, MAHARASHTRA STATE
ELECTRICITY DISTRIBUTION COMPANY LTD. & ANR.****Respondent(s)****O R D E R**

Leave granted.

This appeal arises from a decision of the National Consumer Disputes Redressal Commission¹ dated 6 June 2016 by which compensation of Rs 2,00,000 has been granted to the appellant.

The appellant who is an agriculturist holds agricultural land bearing Gat No. 258/1B admeasuring five Hectares and fifteen Ares situated at Mauje Bamkheda Taluka Shahada, District Nandurbar, Maharashtra. The appellant caused a bore well to be dug on the land. He then applied for an electricity connection to the respondent on 26 December 1996 and deposited charges of Rs 2,620. On 31 July 2004, he deposited a further sum of Rs 2,250 towards meter charges.

The respondent raised a bill for consumption charges between 30 September 2005 and 31 December 2005 amounting to Rs 1,380.

The appellant claimed that no electricity connection had been

1 ("NCDRC")

installed.

In these circumstances, he filed a consumer complaint on 14 July 2006 before the District Consumer Disputes Redressal Forum, Nandurbar².

In the written statement, the case of the respondent was that an electricity connection was granted to the appellant. The respondent stated that after applying for a connection in 1996 for the grant of an electricity connection, the appellant did not submit a test report in spite of a public notice dated 7 July 2004. This had resulted in delay, which was attributable to the appellant. Evidently, the test report was received by the respondent on 24 March 2005. According to the respondent, after the receipt of the report, the work of issuing electricity bills was going on and a bill was issued to the appellant. In the circumstances, it was submitted that the delay in the grant of an electricity connection to the appellant was on account of the default of the appellant since it was only in March 2005 that the test report was submitted.

The District Forum by its order dated 24 January 2007 allowed the complaint in the following terms:

"1) The complaint of the complainant is partly allowed and the opponents shall pay to the complainant the amount of Rs 4870 (in words Rupees Four Thousand Eight Hundred Seventy Only) plus the expenditure of borewell of Rs 30,000/- [in words Rupees Thirty Thousand only], so also the amount of Rs 1,00,000/- [in words Rupees One Lakh Only] towards physical, mental agony and financial loss, thus total Rs. 1,34,870/- [in words Rupees One Lakh Thirty Four

Thousand Eight Hundred Seventy Only] on or before 22.2.2007, failing which the complainant shall be entitled to recover the said amount together with interest @ 12% p.a. from 22.2.2007 till realization of the said amount.

[2] The opponent should give electricity connection to the complainant as per rules before 22.2.2007 on getting compliance of necessary amount of documents, failing which the complainant will be entitled to recover the amount of Rs. 11,34,870/- [in words Rs. Eleven Lakhs Thirty Four Thousand Eight Hundred Seventy only] as demanded by him in his complaint."

In appeal, the State Consumer Disputes Redressal Commission³ reversed the order of the District Forum on 19 December 2013. The SCDRC held that though the appellant had applied for an electricity connection in 1996, he did not submit a test report. The SCDRC held that at the highest, the respondent could be held liable for a deficiency in service as the electricity connection was not given even after 2007. Yet the appeal was allowed and the complaint was, in consequence, dismissed.

When the appellant carried the matter to the NCDRC, the revision was initially dismissed. However, the appellant filed a review petition. The Review Petition was allowed and a compensation of Rs 2,00,000 was awarded to the appellant.

Mr. Vinay Navare, learned senior counsel appearing on behalf of the appellant submits that this is a case where an agriculturist was left in the lurch for nearly nineteen years

after the submission of an application for the grant of an electricity connection. It was urged that in the written statement, a false stand was taken by the respondent to the effect that the electricity connection had already been granted. The fact of the matter is that it was only when the High Court of Judicature at Bombay passed an order on 14 August 2015 in Criminal Writ Petition No. 247 of 2005 that the connection was granted on 4 September 2015. Hence, it was urged that a case for the grant of compensation was made out since the appellant was disabled from using his bore well in the absence of electricity. The purpose of having a bore well was defeated as a consequence of which the land of the appellant could not be irrigated. The damage which was sustained by the appellant, was in the submission, liable to be compensated. The award of Rs 2,00,000, it was urged, does not meet the requirement of fair compensation.

On the other hand, learned counsel appearing on behalf of the respondent submitted that it was the failure of the appellant to submit a test report for nearly eight years after the submission of the application that led to a delay in the grant of an electricity connection. Reliance was placed on an undertaking alleged to have been issued by the appellant on 2 February 2007 to the effect that he had been granted a connection for the purposes of the bore well after the order of the District Forum (On this aspect, Mr. Navare, learned senior counsel has pointed out that the alleged undertaking has been produced for the first time before this Court in the counter

affidavit and was not either pleaded or set up in the proceedings before the District Forum.)

The facts as they emerge from the record indicate that the appellant had initially applied for an electricity connection in December 1996. The appellant, however, submitted a test report, which is a requirement for obtaining such a connection, only in March 2005. Hence, the respondent cannot be faulted for the delay which occurred between the date of the submission of the application and until the appellant complied with the requirement of submitting a test report.

But the fact of the matter is that the test report was submitted on 24 March 2005. There is no cogent explanation on the part of the respondent as to why a decade thereafter elapsed before the electricity connection was granted to the appellant. As a matter of fact, a criminal complaint was lodged by the appellant. Criminal Writ Petition No. 247/2015 was instituted by the Executive Engineer of the respondent. On 14 August 2015, a Division Bench of the Bombay High Court, while quashing the complaint, passed the following order:

"The learned counsel appearing for the petitioners, on instructions of Assistant Engineer i.e. petitioner no. 2, makes a statement that, by 5th September, 2015 the new meter with electric supply will be supplied in agricultural field of Respondent no. 1 i.e. in Gut No. 258/1B at Bamkheda Shivar, Tq. Shahada, Dist. Nandurbar. The earlier electricity bills will be treated as 'Zero'.

2. In the light of statement of the learned Advocate appearing for the petitioners, the learned counsel appearing for Respondent No. 1, on instructions of Respondent No. 1, submits that, the Respondent No. 1 has no

objection, if the Petition is allowed and the proceedings in R.C.C. No. 4/2015 pending on the file of J.M.F.C. Shahada are quashed and set aside along with Crime No. 1/2015 under Sections 166, 167, 384, 420, 465, 468, 471, 477A and 34 of I.P.C. r/w Section 66D of Information Technology Act, 2002 registered with Sarangkhedha Police Station, Dist. Nandurbar.

3. In the light of above, the proceedings in R.C.C. No. 4/2015 pending on the file of J.M.F.C. Shahada and Crime No. 1/2015 under Sections 166, 167, 384, 420, 465, 468, 471, 477A and 34 of I.P.C. r/w Section 66D of Information Technology Act, 2002 registered with Sarangkhedha Police Station, Dist. Nandurbar are quashed and set aside. The Petition stands allowed in above terms."

The above order indicates that a statement was made on behalf of the respondents that a new meter with electricity supply will be provided to the agricultural field of the appellant on 5 September 2015. Such an exercise was carried out on 4 September 2015.

In this background, we are of the view that the appellant has suffered hardship and inconvenience as a result of an unexplained delay of one decade on the part of the respondent(s) in granting an electricity connection. After the submission of the test report, no further steps were required to be carried out by the appellant. The appellant evidently required an electricity connection for the purpose of activating the bore well for supplying water to his agricultural fields.

In our view, having regard to the above facts and circumstances of the case, the grant of compensation by the NCDRC in the amount of Rs 2,00,000 will not be adequate to meet

the requirement of just and fair compensation to a consumer who has suffered as a consequence of the default of the respondent.

We accordingly, enhance the compensation which has been awarded by the NCDRC to an amount of Rs 5,00,000 which shall be paid over within a period of four weeks from today. In default, the compensation shall carry interest at the rate of 9 per cent per annum.

The civil appeal is allowed in these terms. No costs.

Pending application(s), if any, shall stand disposed of.

.....J.
(DR. DHANANJAYA Y. CHANDRACHUD)

.....J.
(HEMANT GUPTA)

NEW DELHI
APRIL 8, 2019

ITEM NO.50

COURT NO.11

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 29994/2016

(Arising out of impugned final judgment and order dated 06-06-2016 in RA No. 98/2016 06-06-2016 in RP No. 1737/2014 passed by the National Consumers Disputes Redressal Commission, New Delhi)

TUKARAM S/O SADASHIV CHAUDHARI

Petitioner(s)

VERSUS

THE EXECUTIVE ENGINEER, MAHARASHTRA STATE
ELECTRICITY DISTRIBUTION COMPANY LTD. & ANR.

Respondent(s)

Date : 08-04-2019 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE HEMANT GUPTA

For Petitioner(s)

Mr. Vinay Navare, Sr. Adv.
Ms. Gwen Karthika, Adv.
Ms. Abha R. Sharma, AOR

For Respondent(s)

Ms. Neetika Sharma, Adv.
for M/S. M. V. Kini & Associates, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The Civil Appeal is allowed in terms of the signed reportable order.

Pending application(s), if any, shall stand disposed of.

(MANISH SETHI)
COURT MASTER (SH)

(SUNIL KUMAR RAJVANSHI)
BRANCH OFFICER

(Signed reportable order is placed on the file)