NES.

STATE CONSUMER DISPUTES REDRESSAL COMMISSION, UTTAR PRADESH, LUCKNOW.

REVISION NO.10 OF 1998

(Against the judgment/order dated 2.12.1997 in Complaint Case No.1041/97 of the District Consumer Forum, Sonebhadra)

Executive Engineer, Canal Division & another Versus

...Revisionists

Maana & others

.....Opposite-parties

BEFORE:-

HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT.

HON'BLE MR.CHANDRA BHAL SRIVASTAVA, MEMBER.

HON'BLE MR. YASHPAL SHARMA, MEMBER.

For the Revisionist

: Mr. R.K. Gupta, Advocate.

For the Opposite-party

: None.

Dated: 25.3.2011

JUDGMENT

HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT (ORAL)

The case called out. None is present on behalf of the opposite parties, even though the notice of date was sent to them. On the other hand, Mr. R.K. Gupta, learned counsel for the revisionists is present.

Since it is an old revision of the year 1998, we deem it appropriate to decide it on merit.

The opposite-parties/complainants filed their complaint No.1041 of 1997 before Sonebhadra District Consumer Forum praying for a direction against the revisionists not to interfere with their possession over the land in their occupation. The revisionists filed a preliminary objection that it was not a consumer dispute and as such their complaint was not maintainable. This contention was negatived by the Forum below and it was held that the complaint was maintainable.

In our considered opinion the District Consumer Forum greviously erred by holding the dispute to be cognizable by it. If we place the complaint of the complainants on the touch-stone of the consumerism, we would find that it was certainly not a consumer dispute. The complainants were neither the purchasers in terms of the consumer as defined by the Act, nor they had hired any service of the revisionists on the basis of which they would have pleaded deficiency in service on their part. The District Consumer Forum appears to have been

swayed away by the definition of court and since the District Consumer Forum also falls within the category of a court, it had wrongly interpreted that the kind of dispute brought before it was a consumer dispute. Such an approach seems to be misconceived and not sustainable. A case filed for mandatory injunction restraining the opposite-parties from interfering with the complainants' possession was by no stretch of reasoning a consumer dispute and, therefore, the complaint of Sri Maana and others was liable to be dismissed on this ground alone.

Accordingly, we hold that the impugned order suffers from serious infirmity of jurisdiction. It is hereby quashed.

The revision is allowed and the complaint of the opposite-parties/complainants stands dismissed.

(JUSTICE BHANWAR SINGH)
PRESIDENT

(CHANDRA BHAL SKIVASTAVA)

MEMBER

(YASHPAL SHARMA) MEMBER

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