SC/29/CC/52/2016

Date of filing: 10.02.2016
Date of disposal: 06.04.2026

BEFORE THE KARNATAKA STATE CONSUMER DISPUTES REDRESSAL COMMISSION, BENGALURU (PRINCIPAL BENCH)

DATED: 06th DAY OF APRIL 2026

PRESENT

CORAM: HON'BLE Mr. JUSTICE T.G. SHIVASHANKARE GOWDA – PRESIDENT

and

HON'BLE Mrs. DIVYASHREE M – LADY MEMBER

SC/29/CC/52/2016

Sri. Murugan,
Aged 45 Years,
S/o. Kannan,
No.21, Hennurbande,
Narayanavihar Layout,
Bangalore-560 043.

(Rep. by Sri. Sreepad.S.R, Advocate) **.....Complainant/s.**

- V/s –

D. Sudhindra Rao,
S/o. Late. D.Raghothamacharya,
Aged about 69 Years,
279, 3A Main Road,
Koramangala,

Bangalore-560 095.

(Rep. by Sri. Narayana Swamy.P.M, Advocate) **.....Opposite party/s.**

ORAL ORDER

(PER:HON'BLE Mr. JUSTICE T.G. SHIVASHANKARE GOWDA, PRESIDENT)

This complaint is filed Under Section 12 of the Consumer Protection Act, 1986 seeking direction to the opposite party to pay a sum of Rs.40,00,000/- towards compensation with interest at 18% per annum, Rs.50,000/- towards mental agony and litigation expenses.

2. The brief facts of the complainant's case is that, the complainant is the absolute owner of the property No.20(21) carved out of Sy. No.27, Khatha No.119, Hennur Village, Kasaba Hobli, Bangalore North Taluk, measuring 40 x 30 ft. The complainant has purchased the said property from one Sri. D. Raghottamacharya the father of the opposite party on 22.07.1991 through

power of attorney and he has also executed an affidavit in support of power of attorney. Complainant was put in possession of the said property by virtue of an agreement dated: 02.04.1989. Though the power of attorney was executed on 22.07.1991 the complainant has put up the residential construction, he was paying the tax to the concerned and residing along with his family members. He has drawn the electricity and paid the bills regularly. Such being so, on 10.09.2014 the BDA under the guise of acquisition, without issuing notice to him had demolished the building and took possession of the property. He gave the representation to the BDA seeking alternative site and also damages. Though his application was acknowledged no intimation was received. He has also filed a Writ Petition before the Hon'ble High Court of Karnataka in W.P. No.48524/2014 seeking mandamus to BDA to consider his representation for alternative site. When the matter was listed before the Hon'ble High Court of

Karnataka for admission he came to know that in respect of 3 acres 20 guntas of land at Hennur Village in Sy. No.27 the opposite party has also filed the Writ Petition in WP No.44997/2014 and got it withdrawn. It appears that the opposite party must have received the compensation from the BDA and therefore he is duty bound to compensate the complainant as successor of the vendor Sri. D. Raghuttamacharaya. Complainant has paid consideration of Rs.24,00,000/- and put up the construction spending Rs.20,00,000/-. Hence he sought for compensation.

3. Opposite party has opposed the complaint by filing the version contending that, he father was the owner of the 3 acres 20 guntas of land in Sy. No.27 Hennur Villaga, kasaba hobli, Bangalore North Taluk and he has also filed the Writ Petition before the Hon'ble High Court of Karnataka and same has been withdrawn. He admits that, Sri. D. Raghuttamacharaya was his father

and he is the one of the Legal heir of his father. Other Legal Representatives are not made as parties to the complaint, hence complaint is bad for non-joinder of necessary parties. The other allegations of the complainant that, that he has purchased the 40 x 30 ft site from his father under execution of power of attorney and also affidavit on 27.02.1991, construction by spending Rs.20,00,000/- are hereby denied. It is contended that, the matter is of civil in nature, the complainant is not a consumer under C.P. Act and this Forum lacks jurisdiction and sought for dismissal of the complaint.

4. In order to explain his case, the complainant himself has filed his affidavit evidence and he has produced certain documents which are not marked. On behalf of the opposite party affidavit evidence is filed.

5. No arguments is addressed on behalf of the complainant, opposite party has filed the written arguments.

6. Now the points that arise for consideration are:-

(i) Whether the complainant is a consumer under the opposite party?

(ii) Whether the complainant is entitled to relief that he has prayed for?

(iii) What order?

-: REASONS :-

POINT NO.(i):-

7. The main contention of the opposite party is that, there are other legal heirs of the Sri. D. Raghuttamacharaya who are not brought on record. The complainant has produced the General Power of Attorney and also the Agreement of Sale executed by Sri. D. Raghuttamacharaya. Both documents are unregistered documents and the complainant is making

the claim over the property by virtue of these two documents.

8. On perusal of the Agreement of Sale dated: 02.04.1989, the consideration that was said to be paid is Rs.24,00,000/-, under the Agreement of Sale delivery of possession was taken. Hence the Agreement of Sale required mandatory registration and on the basis of an unregistered document right will not pass on to the complainant.

9. The complainant though produced certain tax paid receipts and also electricity paid receipt which will not confirm any title deed over the said property. The opposite party has specifically denied the execution of Power of Attorney, Affidavit and also the Agreement of Sale in favour of the complainant on payment of consideration.

10. In order to establish that, there exist such property, complainant was acquired any title or interest over the said property the declaration has to be given and such kind of declaration has to be granted by the Civil Court and not by the Consumer Commission.

11. In order to claim a relief before this Commission complainant is required to establish that he is a consumer within the meaning of section 2(1)(d) of the C.P. Act, 1986 it reads as follows:-

> **"Section 2(1)(d) of the Consumer Protection Act, 1986:-**
>
> **"Consumer" means any person who,—**
>
> **(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or**
>
> **(ii) hires or avails of any services for a consideration which has been paid or**

promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who [hires or avails of] the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person 2 [but does not include a person who avails of such services for any commercial purpose].”

12. Here in this case there is no relationship between the complainant and the opposite party. Opposite party is only the son of the alleged vendor of the property. Nowhere in the complaint we found, that any services rendered by the opposite party in favour of the complainant. It is the BDA which has demolished and taken possession of the property which was acquired by it and whoever under the possession of the property has to approach the BDA for seeking compensation. Accordingly the complainant has approached the BDA and his request was not considered and he has also filed the Writ Petition before the Hon’ble High Court of Karnataka in WP 44997/2014 (LA-BDA). The Hon’ble

High Court of Karnataka vide Order dated: 10.06.2015 complainant had withdrawn the Writ Petition as not pressed and therefore the complainant by exhausting all the remedy before the Hon'ble High Court of Karnataka has approached this Consumer Commission seeking reliefs.

13. As discussed above, the complainant is required to explain how he is a consumer, but the claim made by the complainant is under Agreement of Sale from the father of the complainant in the year 1989, BDA demolished and taken possession of the property in the year 2020. If the complainant has to seek remedy against the legal representatives of the vendor he has to approach Civil Court for specific performance of contract or should persuade the BDA for awarding compensation to his extent of the property in Sy. No.27 which consists of 03 acres 20 guntas.

14. No evidence is placed on record to show that, the opposite party has received any compensation from the BDA, so as to direct him to pay the share of the complainant to the extent of land measuring 40 x 30 ft in Sy. No.27. The allegation made in the complaint and also in the evidence on record explains the litigation is of Civil in nature and there is no relationship of consumer and the service provider and the complainant will not fall within the purview of Section 2(1)(d)(i)(ii) of the Consumer Protection Act, 1986. Hence we answer Point No.(i) accordingly.

POINT No.(ii):-

15. In order to grant a relief of compensation the complainant will have to prove that he is a consumer and there is a deficiency of service on the part of the opposite party. But in view of our discussion on Point No.(i) the complainant is neither a consumer nor there is such relationship with the opposite party. A civil

litigation has been brought before this Commission seeking the remedy, but this Commission lacks jurisdiction, to exercise jurisdiction in a matter of this nature and the complainant is not entitled to any relief prayed for. Accordingly we answer the Point No.(ii).

POINT NO.(iii):-

16. In view of our findings on Point Nos.(i) & (ii), we pass the following:-

ORDER

(i) The complaint is dismissed.

(ii) No order as to costs.

(iii) Office to furnish one set of certified copy of this order free of cost to both parties to this complaint.

(JUSTICE T.G.SHIVASHANKARE GOWDA)
PRESIDENT

Divyashree.M 6/4/26

(SMT. DIVYASHREE M)
LADY MEMBER

KNMP*

ANNEXURES		
01.	**Witnesses examined on behalf of complainant:-**	
	CW.1	Sri. Murugan.
02.	**Documents marked on behalf of complainant:-**	
	- NIL -	
03.	**Witnesses examined on behalf of opposite party:-**	
	DW.1	Sri. Sudhindra Rao.D
04.	**Documents marked on behalf of opposite party:-**	
	- NIL -	

(JUSTICE T.G.SHIVASHANKARE GOWDA)
PRESIDENT

Divyashree M 6/4/26

(SMT. DIVYASHREE M)
LADY MEMBER

KNMP*