

STATE CONSUMER DISPUTES REDRESSAL COMMISSION
BIHAR, PATNA
(Appeal No. - 237 of 2018)

Anita Ambar,
Wife of Late Baldeo Sah,
R/O- Village- Tyotha,
P.S.- Benipatti, District- Madhubani.

Appellants/Opposite-party

VERSUS

Rajdeo Jha,
Son of late Shubhkant Jha,
R/o- Village + P.O.- Navkarhi,
District- Madhubani.

Respondent /complainant.

Counsel for the Appellant- Sri Pritam Kumar, Advocate
Counsel for the Respondent- Sri Rama Ishwar Chandra, Advocate

BEFORE,

Miss Gita Verma, Judicial, Jud. Member (F)
Md Shamim Akhtar, Jud. Member (M)

ORDER

Per : Md. Shamim Akhtar, Judicial Member

Dated- 01.03.2024

1. The Appellant has filed the appeal against the order dated 22.05.2018 passed in consumer complaint case no- 91 of 2016 by the Learned District Consumer Forum, Madhubani, whereby and where under the Appellant /O.P. has been directed to supply the balance 26,250bricks of standard quality to the Respondent/complainant or in alternative make payment of Rs. 1,20,750/- with interest @ 5% from February 2015 till realization and also to pay Rs. 3,000/- as harassment and Rs. 2,000/- as litigation cost to the Respondent/complainant within three

months of the order failing which penal interest @ 2% will be applicable.

2. The case of the Respondent/complainant in brief is that the husband of the Appellant/O.P. was running a brick kiln in name and Style of M/S Rose Eent Udyog and the complainant approached the husband of the O.P. for supply of thirty thousand bricks on a total price of Rs. 1,38,000/- and the said amount of Rs. 1,38,000/- was paid to the husband of the O.P., through two cheques on 12.01.2015 and thereafter on the husband of the O.P. namely Rajdeo Sah supplied 1250 bricks on 31.05.2015 and 2500 bricks on 03.06.2015 and thereafter the supply of the rest bricks was avoided and in the month of January 2016 the said Rajdeo Sah (husband of the O.P.) died and after sometime the complainant asked the O.P. to supply the bricks or to refund the money but it was refused and on 18.08.2016 a legal notice was sent but to no effect. Further case is that due to non supply of the remaining bricks the construction work was stopped and he suffered economic loss and also suffered physical and mental agony. Prayer was made for a direction to the O.P. either to supply the remaining 2650 bricks or to refund Rs. 1,20,750/- and other monetary loss etc were also claimed.
3. The Appellant/O.P. appeared and filed her written statement in which she has denied and disputed the claim of the Respondent/complainant. The case of the Appellant/O.P. in brief as made out in her written statement is that there was no agreement in between her late husband and the Respondent/complainant to supply bricks on payment of Rs. 1,38,000/-. Further case is that her husband has not received Rs. 1,38,000/- as consideration money for supply of the bricks rather the Respondent/complainant had taken Rs. 1,38,000/- incash from her late



husband which was returned in the form of two cheques. Further case is that the receipts of M/S/ Rose Eent Udyog filed by the complainant are false and manufactured by him after the death of her husband and this false case has been filed knowing her to be a widow and her husband died on 02.01.2016 and after eight months of the death of her husband legal notice was sent. It is also case of the O.P. that had her husband taken money for supply of bricks he could have definitely supplied the bricks and now the bricks klin is closed. Prayer is made to dismiss the case with cost.

4. After hearing the parties the Learned District Consumer Forum, Madhubani passed the impugned order.
5. Being unhappy with the impugned order the Appellant/O.P. has preferred the appeal mainly on the grounds that the impugned order is wrong on the fact as well as on the law and the documents upon which the court relied are not strong piece of evidence because it does not bear the signature of the husband of the Appellant and the court has allowed the complaint only on the basis of conjuncture and surmises. Further grounds are that the court has not tried to compare the annexure-3 with its regular ledger books and the impugned order is otherwise bad and is fit to be set aside.
6. We have heard both the sides. Perused the records including the notes of argument filed by the parties.
7. From the pleading of the complainant/Respondent it appears that there was an oral agreement in between the late husband of the Appellant/O.P. and the complainant/Respondent and as per the complainant a sum of Rs. 1,38,000/- was paid vide two cheques to the late husband of the Appellant /O.P. on the other hand the Appellant says



that it was made towards repayment of loan taken by the complainant/Respondent. Payment was made in January 2015 and the husband of the Appellant/O.P. died in January 2016 and legal notice was sent on 18.08.2016. The Appellant/O.P. denied that there was any agreement for supply of bricks between her late husband and the complainant and the bricks klin is also closed now. It is also alleged by the Appellant/O.P. that the complainant want to extort money from her and for which she has filed inforatory petition no- 112/2016 before the learned CJM and the complainant has filed the case by creating forged documents.

Thus, from the pleadings of the parties and in the circumstances of the case as discussed above we find that the present case is not a simple case of deficiency in service and involves determination of complex question of fact which cannot be satisfactorily determined by a redresal agency under the Consumer Protection Act. It would be better for the complainant to seek redressal of his grievances in a civil court of competent jurisdiction, if so advised. We thus set aside the impugned order and dispose of the appeal on above terms. No cost as to order.

8. A copy of this order be supplied to both the parties free of cost as mandated by the Consumer Protection Act, 2019. The order be uploaded forthwith on the confonet of the State Commission.

Let the file be consigned in the record room along with copy of this order.

Handwritten signature