

THE STATE OF GUJARAT

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v.

RAJESH KUMAR CHIMANLAL BAROT AND ANR.

AUGUST 5, 1996

[S.P. BHARUCHA AND S.C. SEN, JJ.]

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Consumer Protection Act, 1986 :

Consumer Disputes Redressal Forum—Jurisdiction—Adjudication of dispute by State Commission not falling within the purview of the Forum—Effect of—Held, if a court does not have jurisdiction, it is the obligation of the appellate Court so to hold and set aside the order under appeal—Having regard to the fact that the question of pricing did not "legitimately fall within the purview of adjudication by the Consumer Disputes Redressal Forums", order under appeal is set aside and the claim made by the respondents before the State Commission is dismissed.

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 10191 of 1996.

From the Judgment and Order dated 25.8.93 of the National Consumer Dispute Redressal Commission, New Delhi in A. No. 160 of 1992.

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Yashank Adhyaru and Ms. H. Wahi for the Appellants.

M. Barot and Ms. H. Khatun for the Respondents.

The following Order of the Court was delivered :

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Delay condoned.

Leave granted.

The order under appeal is passed by the national Consumer Disputes Redressal Commission in first appeal against an order of the State Commission.

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The order under appeal opens with these words :

"Although there is substantial force in the contention advanced by

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A the learned Advocate General, Mr. Thakore, appearing on behalf
of the appellant, that the question of pricing does not legitimately
fall within the purview of adjudication by the Consumer Disputes
Redressal Forums, regard being had to the peculiar facts and
circumstances of the case where only a very small period of about
B 10 months is involved and the party concerned is a Gram
Panchayat, which is claiming benefit of subsidised rate of 25 paise
per unit in respect of electricity consumed by it for the supply of
drinking water to its residents from a bore-well, we are not inclined
to interfere with the order passed by the State Commission uphold-
ing the right of the panchayat to the benefit of the said subsidy."

C We find this very difficult to appreciate. If a court does not have
jurisdiction, it does not have jurisdiction, regardless of the fact that one of
the parties involved is a Gram Panchayat or the period involved is very
short or the amount involved is very small. If a court does not have
jurisdiction, it is the obligation of the appellate court so to hold and to set
D aside the order under appeal.

Having regard to the fact that the dispute did not "legitimately fall
within the purview of adjudication by the Consumer Disputes Redressal
Forums", the appeal is allowed, the order under appeal is set aside and the
claim made by the respondents before the State Commission is dismissed.
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There shall be no order as to costs.

R.P.

Appeal allowed.