

**BEFORE THE HON'BLE DISTRICT CONSUMER DISPUTES
REDRESSAL FORUM, GURUGRAM**

CC No. Of 2022

CC/741/22
9-9-2022
NDH-2211-22

IN THE MATTER OF:

Munni, W/o Sh. Matiyar Rehman, R/o H.No. 51, Near Bandh
and Krishna Mandir, Civil Lines, Gurugram, Haryana

.....**COMPLAINANT**

VERSUS

1. Neetu Chhikara, W/o Late Vineet Chhikara, R/o H.No. 301/18, Krishna Mansion, Civil Lines Road, Opposite HRERA and Working Women Hostel Building, Gurugram, Haryana-122001
2. Municipal Corporation of Gurugram, having its office at Plot no C-1, Infocity, Sector-34, Gurugram, through its Commissioner.

.....**OPPOSITE PARTIES**

**COMPLAINT UNDER THE PROVISIONS OF THE
CONSUMER PROTECTION ACT, 2019 (AS AMENDED
UPTO DATE).**

Sir,



ATTESTED
Neelam S.G.
Assistant Registrar,
D.C.D.R.C/Gurugram
15/11/22

Munni Vs. Neetu Chhikara & Another

Present: Shri Sandeep Saini, Advocate for the complainant.
Shri Rahul Yadav, Advocate for the OP No.1.
Shri Vivek Verma, Advocate for the OP No.2.

ORDER

Heard on the application preferred under Section 38(8) of the Consumer Protection Act, 2019 for grant of interim relief on behalf of the applicant-complainant, in the light of the replies submitted thereto by the OP No.1- Neetu Chhikara and OP No.2- Municipal Corporation, Gurugram, coupled with the evidence placed on the record of this file in the form of color photographs, medical prescriptions and a number of rules and instructions on the subject under various statutory etc. The rival contentions raised by the learned counsel for the contesting parties have also been taken into consideration.

2. The applicant-complainant namely Smt. Munni wife of Shri Matiyar Rehman, resident of H. No. 51, Civil Lines, Gurugram in her application in question has claimed monetary assistance of Rs.10,00,000/- in order to fulfill her basic necessities including medical expenses as well as diet and other miscellaneous expenses on the plea that in the morning of 11.08.2022, the OP No.1 had unleashed her wild and cruel dog in the locality of civil lines, as a result of which, she was harshly bitten by the said dog which caused multiple deep wounds and multiple injuries on the different parts of her body including her head. The complainant further averred that within a few seconds of the incident, she fell down on the road side and after a great deal of efforts, she was



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rescued by an unknown person who was passing through the road site in his car, that later-on she was taken to hospital from where she was referred to Safdarjung Hospital Delhi and after getting protracted medical treatment and paying several visits, ultimately, she was able to save her life.

3. The OP No.1- Smt. Neetu Chhikara, who is stated to be the owner of the dog, in her reply to the aforesaid application, has mainly taken up the plea that the present complaint was not maintainable against her as the complainant was not her consumer. Surprisingly, the OP No. 2 i.e. Municipal Corporation, Gurugram, has also taken up the same plea that the present complaint was not maintainable against it as neither the complainant had got any locus-standi to file the present complaint against it nor this court had any jurisdiction to entertain and decide the present complaint.

4. After taking into consideration the pleadings of the parties in respect of the interim relief in question, as has been prayed for by the complainant, it emerges that certain facts between the parties are admitted ones i.e. that the applicant-complainant indeed was bitten by a ferocious dog namely "**Pit bull**" (which later-on was ascertained as Dogo Argentino), in the morning of 11.08.2022 in the posh area of Civil Lines, Gurugram, that due to the attack of the aforesaid dog, the complainant suffered multiple deep wounds and injuries on the different parts of her body including the rear part of her head, that after the dog attack, the complainant fell down on the side of the road bleeding profusely and was saved by a passersby car owner, that thereafter, the complainant was taken to Hospital from where she was referred to the



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Safdarjung Hospital, Delhi, that after protracted medical treatment and paying several visits, *the* complainant somehow made it possible to return back to her routine life, that no license had been taken by the OP No.1 for keeping the said dog as a pet dog, who was stated to be the owner of the dog at that time, that later-on, it was found that OP No.1 was not even the owner of the said dog as the dog in question belonged to one Shri Dilbag Singh Brar who had bred the said dog, and, further, that the license for keeping the said dog was taken by the OP No.1 from the OP No.2 i.e. Municipal Corporation much after the incident.

5. At the very outset, this Court finds merit in the contention raised by the learned counsel for the opposite party No.1 that complainant cannot be said to be the consumer of OP No.1 as the complainant had not purchased any goods or services etc. from the OP No.1, but, so far as the pleas taken by the OP No.2-Municipal Corporation, Gurugram, to the effect that the complaint against it was not maintainable or that the complainant had no locus standi to file the complaint against it or that this Court had no jurisdiction to entertain and decide the present complaint, are concerned, the same cannot be accorded any credence at all in view of the provisions of Section 34 of the Consumer protection Act, 2019, relating to the jurisdiction of this District Commission, wherein, it has been clearly mentioned that a complaint shall be instituted in a District Commission within the local limits of whose jurisdiction the opposite party at the time of institution of the complaint, ordinarily resides or carries on business or has a branch office or personally works for gain, or where the cause

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of action wholly or in part, arises or the complainant resides or personally works for gain. Needless to say that the instant case all the above cited three conditions stand fulfilled in its entirety, and, therefore, the OP No. 2 Municipal Corporation is estopped from pleadings or taking the plea that this Court/District Commission has no jurisdiction to try and entertain the present complaint.

6. Even otherwise, the Hon'ble Punjab & Haryana High Court in a citation "Savitri Yadav Vs. State of Haryana & Ors." in CWP No. 8832 of 2016 (O&M) decided on 16.09.2019, in a matter relating to compensation occurred on account of death caused by a stray cattle within the limits/jurisdiction of Municipal Committee, Bhiwani, while referring to paragraph 2 (f) of the Bye-Laws read with paragraph 7 (b) and paragraph 9(1) of Bye-Laws, has clearly laid down that para 2 (f) of the Bye-Laws defines "Court" as a Civil Court having jurisdiction over the area, that paragraph 7(b) provides that an appeal can be filed against the order of the lower court and that paragraph 9(1) of the Bye-Laws casts a statutory duty "*on the Municipality and its officials to remain vigilant in carrying out duties and removing stray cattle from public places and commit the same to the cattle ponds maintained out of the funds and revenue collected by way of registration/renewal fee and penalty charges*".

Therefore, the Municipal Committee certainly cannot abdicate its statutory duties on the plea that this Court of law has no jurisdiction to try and entertain the matter against it.



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Similarly, the Hon'ble Apex court i.e. the Hon'ble Supreme Court of India in a case titled as "Vadodara Municipal Corporation Vs. Purshottam Vs. Murjani and Ors. Law Finder Doc Id # 610175 while dealing with a case of compensation relating to accidental deaths caused due to negligence or wrongful acts of Govt. or its agencies, has clearly laid down that in such like matters where deficiency of service stands established, the National Consumer Commission under Consumer Protection Act has rightly granted the compensation, and, thus, needless to say, that in such like cases, the Municipal Committee i.e. the present OP No. 2 in the present case, is estopped and debarred from taking the plea that this court has no jurisdiction to try and entertain the present complaint.

7. Moreover, in this respect, this Court also finds merit in the contention raised by the learned counsel for the complainant that all the persons who are residing within the municipal limits of Municipal Corporation, Gurugram are expressly or impliedly are the consumers of the Municipal Corporation, Gurugram because they are admittedly paying the Municipal taxes, State and Central Government taxes, fees and levies etc. to the Municipal Corporation, Gurugram. Hence, the OP No. 2 i.e. Municipal Corporation, Gurugram in the instant case is again estopped from pleadings even on this count also that the complainant is not its consumer or that this court has no jurisdiction to try and entertain the present complaint preferred by the complainant against it.

8. It is also placed on the record of this file that as per Chapter XVI of



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Public Safety and Suppression of Nuisances under The Haryana Municipal Corporation Act, 1994, it has been contemplated that there should be registration of a dog.

In this connection, Government of India extraordinary Notification No. 3/2015-2020 dated 25.04.2016 clearly states that import of commercial dogs for breeding or any other commercial activities, other than the purposes mentioned in the aforesaid notification (i.e. dogs imported with relevant documents in the name of importer, Dogs imported by the R&D for conducting research or for conducted internal security by the defence and police force) is not permitted, which in turn, clearly means that all the dogs of foreign breeds are not permitted to be imported or to say are banned in India except for the above said three purposes.

The information available in this connection on Internet, also clearly shows that the following 11 breeds of dogs of foreign origin are banned for keeping as pet dogs in India which are as follows:- 1. American Pit-bull Terriers 2. Dogo Argentino 3. Rottweiler, 4. Neapolitan Mastiff, 5. Boerboel, 6. Presa Canario, 7. Wolf Dog, 8. Bandog, 9. American Bulldog, 10. Fila Brasileiro & 11. Cane Corso.

9. It also goes undisputed, as has been pleaded by the learned counsel for the complainant, with the help of the various newspaper cuttings, that the Municipal Corporation, Panchkula has already banned two breeds of dogs of foreign origin namely Pit-Bull and Rottweiler, the Municipal Corporation, Gaziabad has banned registration of three breeds of dogs of foreign origin



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namely Pit-Bull, Rottweiler and Dogo Argentino and that even the Municipal Committee, Gaur has also already made it mandatory by framing rules to the effect that one family will keep only one dog, that the dog owner would muzzle the mouth of his dog with a cap prior to taking the dog in public places, so that it may not bite anybody and that for violation of the above said rules, a fine of Rs.5000/- shall be imposed or in default 6 months imprisonment would be imposed upon the pet dog owners, whereas, the Municipal Committee, Gurugram in this regard has failed to rise to the occasion despite the fact that the city of Gurugram is being claimed as Mega/Millennium City of world class international standards.

10. The provisions of Section 309, 310 and 311 and the Haryana Municipal Act, 1994 are also relevant to be mentioned here on the subject in question, which are reproduced hereinafter as under:-

"309 (1) No person shall.

(g) Let loose any animal so as to cause, or negligently allow any animal to cause, injury, danger, alarm or annoyance to any person; or

310. Where the Commissioner is of opinion that there is a nuisance of any land or building, he may, by notice in writing, require the person by whose act, default or sufferance the nuisance arises or continues or the owner, lessee or occupier of the land or building, or one or more of these persons to remove or abate the nuisance by taking such measures in such manner and within such period as may be specified in the notice.

"311. (1) The Corporation may, by bye-laws made in this behalf-

(a) require the registration by the registration authority appointed by the Commissioner in this behalf of all dogs kept within the Municipal areas;

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- (b) require that every registered dog shall wear a collar to which shall be attached a metal token of to be issued by the registration authority, and fix the fee payable for the issue thereof;
- (c) require that any dog which has not been registered or which is not wearing such token shall, if found in any public place, be detained at a place set apart for the purpose: and
- (d) fix the fee which shall be charged for such detention and provide that any such dog shall be liable to destroyed or otherwise disposed of unless it is claimed and the fee in respect thereof is paid within one week.

(2) The Commissioner may-

- (a) cause to be destroyed, or to be confined for such period as he may direct, any dog or other animal which is, or is reasonably suspected to be suffering from rabies, or which has been bitten by any dog or other animal suffering or suspected to be suffering from rabies;
- (b) by public notice direct that, after such date as may be specified in the notice. dogs which are without collars or without marks. distinguishing them as private property and are found straying the streets or beyond the enclosures of the houses of their owners, if any. may be destroyed and cause them to be destroyed accordingly
- (3) No damages shall be payable in respect any dog or other animal destroyed or otherwise disposed of under this section
- (4) No one, being the owner or person incharge of any dog, shall allow it to be at large in any public place without being muzzled and without being secured by a chain lead in any case in which-

(a) he knows that the dog is likely to annoy or intimidate any person; (b) the Commissioner has, by public notice during the prevalence of rabies, directed that dogs shall not be at large without muzzled and chain leads.

- (5) No one shall- (a) allow any ferocious dog which belongs to him or is in his charge to be at large without being muzzled; or (b) set on or urge any dog or other animal to attack, worry or intimidate any person; or (c) knowing or having reason to believe that any dog or animal belonging to him or in his charge has been bitten by any animal suffering or reasonably suspected to be suffering from rabies, fail or neglect to give immediate information of the fact to the Commissioner or give information which is false."

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Thus, in view of the aforesaid notifications, instructions and rules on the subject in question coupled with the rules contemplated under Public Safety and Suppression of Nuisances under the Haryana Municipal Corporation Act, 1994, this court is of the considered view that it would be in the interest of justice, if the Municipal Corporation, Gurugram, is directed to take the custody of the dog in question i.e. namely Dogo Argentino immediately from the OP No. 1 and to cancel the license issued in this regard in favour of the OP No.1 with immediate effect i.e. w.e.f. from today itself (w.e.f. 15.11.2022). It is, therefore, ordered accordingly.

11. The colour photographs placed on the record of this file by the applicant/complainant depicts the tell-tale of the gravity and seriousness of the multiple injuries suffered by the victim-complainant-Munni on her person due to the ferocious dog attack. Two color photographs placed on the record of this file, which were taken at the time of open head surgery of the complainant in Safdarjung Hospital at Delhi, are so disturbing that they fill shivering in one's spine and prove that out of the various multiple injuries suffered by the complainant-victim on her person, the injury suffered by her on the rear part of her head was even life-threatening.

The medical record placed on the record of this file also depicts that the complainant had to undergo a protracted follow-up medical treatment in the Safdarjung Hospital by paying repeated visits. Hence, this court is of the

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considered view that it would be in the fitness of the things and in the interest of justice, if an amount of Rs.2,00,000/- is ordered to be paid as compensation by way of interim relief by the Municipal Corporation, Gurugram to the victim, who is stated to be very poor lady doing the household works in the house of others.

It is further made clear that since the OP No. 1 had blatantly violated the law of the land and the rules framed thereunder for having kept the banned breed of dog i.e. Dogo Argentino as a pet dog, so, the Municipal Corporation, Gurugram is put at liberty to recover the amount of Rs.2 lakh from OP No.1, if it is so desired by the Municipal Corporation, Gurugram.

Though, to some people, this interim relief amount of Rs.2 lakh as compensation may seem exorbitant but if such people are asked to get bitten by a ferocious dog like Dogo Argentino on the rear part of their head with the offer of Rs.2 lakh as compensation, then, needless to say, that their answer would be obvious.

12. At this stage, the learned counsel for the complainant has also contented with vehemence that this Court being the custodian of the rights of the consumers at large, cannot close its eyes and cannot look the other way in respect of protecting the rights of the consumers in general, and, that, this Court, therefore, cannot wait for an another ghastly incident to happen in the near future either at the hands of ferocious pet dogs or the stray dogs who bite indiscriminately and thus mercilessly interferes with the life, health and personal safety of the consumers at large.



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The learned counsel for the complainant in this regard while pointing out that the dog bite cases had crossed all the limits and that as per the information available on the Internet, there are 9.1 million street or stray cattle in India, out of which 62 million i.e to say 6.2 crore are the street or stray dogs, and that besides it, approximately 1.2 crore are pet dogs, the count of which was going to increase up to 3.1 crore by the end of the year 2023, and, thus, he contended that if we take a cumulative number of stray and pet dogs together then this number swells up to 9.1 crore, which means that virtually there is one dog against every 15 persons in India keeping in view the population of India as 135 crore. In this way, he contended, that this country has virtually turned into a "Dogistan" instead of "Hindustan", with average 77 lakh attacks of dogs per year through-out India, which results in about 20,000 deaths every year i.e. the number of deaths which are far far ahead of the killings caused even by the terrorists and the terrorist organizations. Thus, he concluded, that in view of such an alarming situation, which has turned the term of "dog bite "menace" into that of the term "dog bite terror", this court has a sacred duty to issue proper interim orders and directions to Municipal Corporation, Gurugram, to curve the "dog bite terror" in future so that the lives of hapless and helpless consumers of Gurugram could be saved and their health and personal safety could be ensured from the reach of the ferocious dogs.

13. Needless to say that this Court fully agrees, with the aforesaid contentions of the learned counsel for the complainant and the concerns

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expressed by him about the basic fundamental rights of the consumers of Gurugram at large relating to their life, health and personal safety, and, thus, this court is of the considered view that it would be in the fitness of things and in the interest of justice as well as in the wellness of the consumers at large of the Gurugram District, if the following interim orders and directions are issued to the Municipal Corporation, Gurugram, which are as follows:-

A. Regarding Banned breeds of Dogs

- (i) For ensuring the proper compliance of the **Government of India extraordinary Notification No. 3/2015-2020 dated 25.04.2016**, the following pet dogs of foreign breeds are hereby completely banned with immediate effect w.e.f. 15.11.2022 which are as follows:- 1. American Pit-bull Terriers 2. Dogo Argentino 3. Rottweiler, 4. Neapolitan Mastiff, 5. Boerboel, 6. Presa Canario, 7. Wolf Dog, 8. Bandog, 9. American Bulldog, 10. Fila Brasileiro, & 11. Cane Corso.
- (ii) The Municipal Corporation, Gurugram is directed to cancel all the license/s, if any, issued in this regard in favour of the dog owners for keeping the above cited pet dogs with immediate effect and take into its custody the aforesaid dogs immediately w.e.f. 15.11.2022.
- (iii) The Municipal Corporation, Gurugram in this regard is also directed to issue public notice/notification with immediate effect, thereby informing all the residents of District Gurugram including the residents of various housing/residential societies situated within the limits of Municipal Corporation, Gurugram.



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(B). **Regarding pet dogs**

- (i) Apart from the aforesaid banned dogs, in respect of the remaining pet dogs, the Municipal Corporation, Gurugram, for ensuring the proper compliance of the Rules/Bye-laws stipulated under Rule 311 of the Haryana Municipal Act, 1994 is directed to make the registration of the pet dogs compulsory/mandatory w.e.f. 15.11.2022 within one month and to issue the license/s in respect thereof, **the fee of which shall not be less than Rs.12,000/- per year, with the renewal fee every year, which shall not less than Rs.10,000/- per year.**
- (ii) The Municipal Corporation, Gurugram is directed to require that **every registered dog shall wear a collar to which shall be attached a metal token coupled with metal chain.**
- (iii) The Municipal Corporation, Gurugram is directed to require that one family will keep only one dog, and, that, whenever, the registered dog is taken to public places, **its mouth shall be properly covered with a net cap or otherwise,** so that it may not bite anyone. Besides, at that time, **the owner of said registered pet dog will also take with him dog shitbag and dog shit plucker** in order to maintain proper hygiene and proper cleanliness at public places.
- (iv) The Municipal Corporation, Gurugram is directed to issue public notice/notification to all the residents/housing societies of District Gurugram-situated within its limit to strictly follow the aforesaid rules with the **warning that who-so-ever was found violating the**



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aforesaid provisions, his/her dog shall be immediately taken into custody by the Municipal Corporation, Gurugram, and, that, the violator would be imposed fine which shall not be less than Rs.20,000/- and which may extend to Rs.2 lakh, in default of which he will incur the imprisonment not less than one month which may extend up to 2 years.

(C) Regarding stray dogs

- (i) All the stray dogs within the limits of Municipal Corporation, Gurugram shall be taken into custody with immediate effect i.e. w.e.f. 15.11.2022 and shall be kept in Dog Ponds or at a place, which is stated to be maintained by the Municipal Corporation, Gurugram near Village Basai with the help of some NGOs, and, that, all the dogs so kept therein shall be taken care of properly with respect to their food, health and personal safety. Besides, such dogs kept in dog pond shall be vaccinated and sterilized properly as per rules.
- (ii) In addition to it, the Municipal Corporation, Gurugram is also directed to frame proper rules for awarding compensation in case of dog bite cases with the provision that in case of dog bite cases the minimum compensation shall not be less than Rs.20,000/- and which may extend up to 2 lakh depending upon the nature gravity & seriousness of the injuries suffered by the dog bite victim. The amount of dog bite compensation and maintenance of dogs shall be collected out of the revenue earned through levy of license fee and



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renewal fee etc. from the dog owners.


- (iii) The Municipal Corporation, Gurugram is further directed to frame the appropriate rules in the light of the aforesaid directions given by this Court within 3 months, and, that until and unless the said rules are framed by the Municipal Corporation, the aforesaid interim orders and directions passed by this Court shall remain in force.

The application in question, thus, stands disposed of accordingly in terms of aforesaid orders.



Member


Member




President
DCDRC, GGN.
15.11.2022

No. & Date of application 25/00+ 15.11.22
(ii) Case No. 74/21
(iii) Date of Disposal/Pending for 22.11.22
(iv) Date of preparation of Copy 15.11.22
(v) Prepared by SANJAY
(vi) Fees Deposited 30/-
(vii) Copy delivered/dispatched on 15.11.22

Certified to be True Copy

Assistant Registrar,
District Consumer Disputes
Redressal Commission,
Gurugram
15.11.22