

Vijayakumar Vs. Suresh and Others

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Court : Kerala State Consumer Disputes Redressal Commission SCDRC
Thiruvananthapuram

Decided On : Jul-21-2012

Judge : The Honourable Mr. M.K. Abdulla Sona Acting President & the Honourable Smt. a. Radha Member

Appeal No. : First Appeal No. A/12/482 (Arisen out of Order Dated 26/03/2012 in Case No. CC/06/176 of District Trissur)

Appellant : Vijayakumar

Respondent : Suresh and Others

Judgement :

SHRI. M.K. ABDULLA SONA : HON. ACTING PRESIDENT

This appeal prefers from the order passed by the CDRF, Thrissur dated 26.3.2012 in C.C. No. 175/06. The appellant is the 3rd opposite party and the respondents are the complainant and first and second opposite parties. In the above said O.Ps the appellant prefers under the direction of the Forum below that to return the kuri pass books amount after deducting the Foremans commission with the interest @ 12% from the date of the complaint till realization within 2 months from the date of receipt of the copy of the order.

On this day, this appeal came before this Commission for admission, the counsel for the appellant argued that the order passed by the Forum below against

appellant/3rd opposite party is wrong and unsustainable in the eyes of law. He submitted that as per the Companies Act 1957, the 3rd respondent is the Managing Director of the first opposite party, company which was a body corporate. His main contention is that; in a company, the liability of the directors are limited. He submitted that the District Forum totally misconstrued and mislead the evidence of the 3rd respondent. The evidence of the 3rd opposite party only go to the extend of admitting the liability of the company which is a body corporate and not debiting personal liability of the petitioner to pay the debts of the company.

We, this Commission heard in detail and this is a question of law; which argued the counsel for the appellant before the Commission. Suppose a company which constituted as per the provisions of the Companies Act is it whether the director or directors are individually liable for the whole liability of the company or not?

In the circumstances we perused the Companies Act and it is seen that the company is a legal person and the directors are having only a limited liability as per law. Otherwise a director or directors shall liable for any liability occurred to the company due to his additional personal capacity. In this case, the appellant is not at all liable for the liability committed by the company. The Managing Director is a person who is representing the company and who acted on behalf of the company he is a chief executive of the company for the day to day activities. In this case, we are not seeing that there is no separate wrongful act committed by the appellant in his personal capacity. In the circumstance, he is not liable for the entire liability of the company which is a limited one. It is a settled position of law. The Managing Director who represented the company only for mainly in representative nature.

The counsel vehemently argued that the order passed by the Forum below is not accordance with the provisions of law. He prays to set aside the impugned order passed by the Forum below and to remand back this case to the Forum below for fresh disposal after considering this question of law.

In the result, this appeal is allowed in part and to remand back the matter to the Forum below for fresh disposal after discussing the question of law which will arisen in this dispute. It also directs the Forum below that to give further opportunities to both parties to adduce their oral and documentary evidence.

Within this direction this appeal is disposed. No cost ordered.

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