

V.P. Augustine and Another Vs. S. Ganesh

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Court : Kerala State Consumer Disputes Redressal Commission SCDRC
Thiruvananthapuram

Decided On : Dec-08-2009

Judge : Justice Shri. K.R. Udayabhanu: President

Appeal No. : IA No. 805 of 2009 IN FA 377 of 2009

Appellant : V.P. Augustine and Another

Respondent : S. Ganesh

Judgement :

JUSTICE SHRI. K.R. UDAYABHANU: PRESIDENT:

The petitioner/first complainant in CC No. 08/2007 in the file of CDRF, Wayanad has sought for condoning the delay of 327 days in filing the appeal.

In the affidavit filed in support of the petition, it is mentioned that he was aged 65 years and laid up with spondylitis. In the affidavit the period of delay is mentioned as 317 days.

The respondent has filed objection pointing out the difference in the days mentioned in the affidavit and petition. It is also contended that spondylitis is not a disease that would disable a person to pursue the matter.

We find that the appellant has produced the certificate of an Ayurvedic Physician mentioning that the complainant was under his treatment from 12-06-2008 and that he is not in a position to move about at present and that he has been advised complete rest. The certificate is dated 09-07-2009.

We find that there are two complainants ie, the present petitioner and his wife. His wife was working as Junior Superintendent in the JFCM Court. The matter related to dispute relating to the digging of a bore well. The opposite party had also initiated proceedings vide CC 629/06 against the complainant u/s 420 IPC. It is mentioned that the same was withdrawn at the request of the second complainant. The matter was also agitated before the Taluk Legal Services Authority. The same was dismissed. The complainants in the OP had claimed refund of Rs. 9,300/-. The Forum has dismissed the complaint after considering the oral and documentary evidence adduced in the matter. We find that the reason mentioned for condoning the delay of 327 days is hardly sufficient to condone such a long delay. It is also to be noted that the second complainant, the wife of the petitioner was a working lady having experience in judicial matters. In the circumstances, we find that there is no merit in the petition filed to condone the delay. The above application is dismissed. Hence the appeal is also dismissed.

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