

Paspat Rai and Another Vs. Manager, State Bank of India and Another

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Court : Bihar State Consumer Disputes Redressal Commission SCDRC Patna

Decided On : Jan-08-1995

Judge : B.N. Sinha, President & the Honourable Mrs. Kalpana Ashok, Member

Appeal No. : Appeal No. 302 of 1994

Appellant : Paspat Rai and Another

Respondent : Manager, State Bank of India and Another

Judgement :

B.N. Sinha, President:

1. This appeal is directed against order dated 20th January, 1994 passed by the District Forum, West Champaran at Motihari in complaint case No. 45 of 93. The complainant before the District Forum is the appellant here and the respondent here-was the opposite party before the District Forum.

2. The memo of appeal was presented before this Commission on 30.8.94 i.e. much after the expiry of the period of thirty days from the date of the impugned order and therefore an application supported by an affidavit has been filed stating the facts on which the appellant relies to satisfy this Commission that there was sufficient ground for not presenting the appeal before this Commission within the period prescribed under Section 15 of the Consumer Protection Act (hereinafter called the Act). It appears that the certified to be true copy of the order was issued

and handed over to the appellant on 2.2.94 but the appeal has not been presented within thirty days thereof. The appellant has mentioned in his application that the appellant No. 4 Sri Birbal Rai is the Karta and Manager of the joint Hindu Family consisting the appellants and he used to look after the pairwi of the case, but he unfortunately fell ill on 16.2.94 and remained bed ridden till 25.8.94; that on 25.8.94 he rushed to Patna consulted his Counsel and filed this appeal. It may be mentioned that there are five appellants and we see no reason as to why the other appellants remained inactive and took no steps to file the appeal even if Sri B. Rai appellant No. 4 was ill. Hence this can not be accepted as sufficient cause for not presenting the memo of appeal within the period specified under the Act and prayer for condoning the delay is hereby refused.

3. Moreover, the case of the complainant with regard to the purchase of a tractor, but not with regard to the defects in the tractor. Rather his complaint is that the opposite party-dealer did not deliver to him the relevant papers including the owner book of the tractor, as a result of which he could not get the tractor registered and consequently the tractor could not ply and therefore the complainant suffered loss of Rs. 100/- per day. The complainant claimed compensation of Rs. 97,000/-.

4. The case not being with regard to any defect in the tractor, the case is not maintainable under the Act. Moreover, the District Forum has considered the materials on the record and disbelieved the version put in by the complainant and accepted the version put in by the opposite party and dismissed the complaint/petition. The District Forum has given cogent and valid reasons for its findings and we find no reason to interfere with the findings of the District Forum.

5. For these reasons we find no merit in the appeal and it is being dismissed.

6. Before we conclude, we would like to mention that the office was ordered to put up this case for orders on receipt of the record of the case before the District Forum only to ascertain if there has been compliance of Section 14(2) of the Act. But as on perusal of the impugned order we find that the case is not maintainable under the Act, the appeal is being disposed of without waiting for the receipt of the record of the case.

7. The appellants are directed to pay Rs. 250/- as cost to the respondent.

Appeal dismissed.

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