

(1998) 12 NCDRC CK 0005

In the National Consumer Disputes Redressal Commission

A.B.BURTADO

APPELLANT

Vs

RADHA OFFSET PRESS

RESPONDENT

Date of Decision : 17-12-1998

Acts Referred:

Citation : 1998 0 NCDRC 3 : 1999 0 ACJ 21 : 1999 1 CLT 317 : 1999 1 CPC 145 : 1999 1 CPJ 37 : 1999 1 CPR 25

Hon'ble Judges : C.L.CHAUDHRY , R.THAMARAJAKSHI , J.K.MEHRA J.

Advocate : R.NEDUMARAN , M.KAMALANATHAN

Judgement

1. THE unsuccessful complainant has come up in appeal against the order dated 20th April, 1994, passed by the State Consumer Disputes Redressal Commission, Goa, dismissing his complaint. The facts of the case out of which this controversy has arisen may be briefly stated.

2. THE complainant deals in the sale of books, stationery, maps and tourism guides besides publishing books. The respondents deal with all types of binding works including the printing of maps. The complainant wanted to print 5,000 copies of colour maps of Goa. By a letter dated 13th July, 1990, the complainant invited quotation from the respondents. In response to the letter of the complainant, the respondents by their letter dated 21st July, 1990 sent their detailed quotation and showed their willingness to print the maps at a total price of Rs. 7,575/- inclusive of the cost of required paper besides taxes. The respondents sent to the complainant another letter of 3.8.1990 reducing the cost of paper thereby bringing the total cost of the printing job to Rs. 6,925/- plus taxes extra. The complainant sent the necessary matter for printing to the respondent alongwith a sum of Rs. 1,000/- towards advance. According to the complainant, in the month of December, 1990, the required quantity of paper was supplied to the respondent. By letter dated 8th January, 1991, the complainant requested the respondent to make certain changes /corrections in the matter given for printing. The respondents, by their letter dated 2.2.1991 informed the complainant that they were carrying out the required changes and

corrections and that the entire printing of complainant's work would be completed before 20th February, 1990. Thereafter the respondent demanded another sum of Rs. 3,000/- which amount was also remitted. The respondent demanded more money with the threat that, otherwise, the work would not be completed. The case of the complainant is that the respondent under some pretext or other deliberately delayed the printing and delivery of the maps. In these premises, the complainant filed a complaint before the State Commission seeking direction to the respondent to complete the work entrusted to it and pay a sum of Rs. 9 lakhs on account of loss and damages suffered by the complainant.

3. THE opposite party contested the claim. The jurisdiction of the State Commission to entertain the complaint was denied. On merits, it was pleaded that they had informed the complainant that the negative and proofing charges would cost extra and that an advance of 75% of the total amount would be payable. They had to write several letters demanding payment of 75% amount as advance since a token advance of Rs. 1,000/- would not be sufficient to begin printing of an order for which the total cost would be Rs. 9,729/-. The complainant after much insistence, paid another sum of Rs.3,000/-and the balance of Rs. 3,296/- was due from him. The complainant himself suggested so many corrections. The delay was solely due to the complainant's making several corrections in the matter that was to be printed and also due to complainant's failure to pay the required advance amount. The complainant did not supply a map duly certified by the Survey of India.

4. THE delay of more than two years was solely due to the indifferent attitude of the complainant. Besides praying for dismissal of the complaint, a prayer was made to direct the complainant to pay the respondent Rs. 25,000/-for loss of business. After hearing the parties, the State Commission passed the impugned order dismissing the complaint of the appellant. The State Commission returned the finding that the Commission had the jurisdiction to try the complaint. There was no negligence or deficiency in the service on the part of the opposite party.

5. AGGRIEVED by the order of the State Commission, the complainant has approached this Commission by way of this appeal which is under disposal. Notice of hearing of this appeal was given to the parties. The appellant sent his written arguments wherein he had stated that he was a cardiac patient aged 74 years and expressed his inability to appear in person and his written arguments may be taken into consideration.

6. THE main grievance of the appellant, as stated in the written arguments, is that the order besides being deficient, is very confusing, vague and ambiguous with contradictions in it. The matter was not dealt with in its totality. In order to appreciate the contention of the appellant and for the sake of convenience, we reproduce paragraph No. 8 of the order passed by the State Commission dealing with the case on merits: "Admittedly, considering that the order was booked at the end of the year 1992, the delay in the printing is not quite reasonable but the

correspondence relied on and produced on record by both the parties establish that a lot of time is wasted in demanding payment and corrections and amendment of the Art work. It is also evident that there was sufficient lapse of the complainant in not getting necessary approval from the Survey of India as is necessary under the Criminal Minor Act. On hearing the arguments and on perusal of the documents put before us, we are convinced that though the delay is apparent it cannot be attributed to the complainant for his negligence of the opposite party. We also cannot give any justification to the failure to get the approval from the Survey of India. In the circumstances, we conclude that there is no negligence nor deficiency in the services of the opposite party. The complaint is, therefore, dismissed."

7. THIS is the only paragraph in the order resolving controversy on merits of the case.

8. WE have perused the order very carefully. In our opinion, the order suffers from legal infirmity. From the pleadings of the parties, it appears that a lengthy correspondence was exchanged between them and voluminous documentary evidence was placed on record by the parties in support of their respective contentions. The State Commission which recorded the finding has not at all adverted to the documentary evidence produced by the parties and rendered no reasons to arrive at the conclusions. The Supreme Court in the case of *Sivaran Lata v. Harendra Kumar*, AIR 1969 SC 1167 laid down as under: "In a judicial trial the Judge not only must reach a conclusion which he regards as just, but, unless otherwise permitted, by the practice of the Court or by law, he must record the ultimate mental process leading from the dispute to its solution. A judicial determination of a disputed claim where substantial questions of law or fact arise is satisfactorily reached, only if it be supported by the most cogent reasons that suggest themselves to the Judge; a mere order deciding the matter in dispute not supported by reasons is no judgment at all. Recording of reasons in support of a decision of a disputed claim serves more purposes than one. It is intended to ensure that the decision is not the result of whim or fancy, but of a judicial approach to the matter in contest; it is also intended to ensure adjudication of the matter according to law. A party to the dispute is ordinarily entitled to know the grounds on which the Court has decided against him, and more so, when the judgment is subject to appeal. The Appellate Court will then have adequate material on which it may determine whether the facts are properly ascertained, the law has been correctly applied and the resultant decision is just. It is unfortunate that the learned trial Judge has recorded no reasons in support of his conclusion, and the High Court in appeal merely recorded that they thought that the plaintiff had sufficiently proved the case in the plaint."

9. THE State Commission has recorded only conclusions which are not supported by reasons and evidence on record does not appear to have been adverted to. The order is violative of the legal principles enunciated by the Supreme court in

the case of Swaran Lata Ghosh (*supra*) and it has no existence in the eye of law. We have no hesitation in holding that the order passed by the State Commission suffers from legal infirmity and is unsustainable in law. As a result, we allow the appeal, set aside the order of the State Commission and remand the case for a fresh decision in accordance with law. Of course, the State Commission will decide the matter after 4 affording an opportunity of hearing the parties. We make no order as to costs. The appeal stands disposed of in the manner indicated above.