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**(2003) 06 NCDRC CK 0068**

**In the National Consumer Disputes Redressal Commission**

ALI KAPADIA

APPELLANT

Vs

UDAY R.JOSHI

RESPONDENT

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**Date of Decision :** 10-06-2003

**Acts Referred:**

**Citation :** 2004 1 CPC 237 : 2004 1 CPJ 218

**Hon'ble Judges :** M.S.Rane , V.K.Data J.

**Final Decision :** Appeal dismissed

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**Judgement**

1. WE are proceeding to dispose of this appeal at the stage of admission itself on perusal of the material available in the appeal paper book and on hearing the learned Advocates for appellant and original complainant who appeared in person. (For brevity's sake appellant is referred to as "O.P. No.1", respondent No. 1 as "complainant" and respondent No. 2 as "O.P. No. 2"). O.P. No. 1 has challenged the order dated 18.2.2002 to the Additional District Forum Pune, whereby he along with respondent/O.P. No. 2 have been jointly and severally ordered to return the Computer to the complainant after repairs as also pay a sum of Rs. 5,000/- with compensation and interest. 3. It is noticed that after filing of the complaint, the District Forum issued its process to both the O.Ps. and what transpired has been very accurately stated by the District Forum in its impugned order. "The Forum sent notice to the respondent twice on 15.1.2001 and 27.4.2001. On both the times the notices returned back with postal remarks "intimated - left addressee" and "intimated - unclaimed". The Forum, therefore, treated it as the deemed service and proceeded ex parte against the respondent. The complainant filed his affidavit by way of evidence."

4. It will thus be noticed that the process dispatched to the O.Ps. at their known address returned unserved and postal endorsement reads intimation issued. It is well settled position of law that such mode of service and endorsement is considered as good and valid service. 5. Thus, it will be noticed that although opportunities were provided to the O.Ps. required under the statute by the District Forum, both of them failed to avail of the same. 6. Across, submission

was made that O.P. No. 1 was not a partner but only an employee. However, it is to be stated no proof has been made available except bare assertion across. 7. WE do not find any merit in the matter since the District Forum on being satisfied about the claim of the complainant made the award. ORDER 1. Appeal stands dismissed.

2. NO order as to cost. A sum of Rs. 5,000/- which the appellant/O.P. deposited with the District Forum be released to the complainant towards part satisfaction and Additional District Forum Pune after the period of appeal is over.

Office to furnish copies of the order herein to both the parties. Appeal dismissed.