

(2006) 12 JH CK 0033
In the Jharkhand High Court

Anup Kumar Sahu

APPELLANT

Vs

Smt. Bhagirathi Devi

RESPONDENT

Date of Decision : 20-12-2006

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151
Consumer Protection Act, 1986 — Section 13

Citation : (2007) 2 JCR 109

Hon'ble Judges : Permod Kohli, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Permod Kohli, J.—This petition has been preferred against the order dated 24.10.2006 passed by the District Consumer Forum, Ranchi in Complaint Case No. 147/05 allowing the amendment sought for by the complainant so as to substitute the quantum of compensation under heads already indicated in the complaint. Challenge is made on two counts (1) the Forum does not have the power to allow amendment and (2) that the amendment amounts to change the nature of the proceedings. With a view to canvass the first question reference is made to Section 13(4) of the Consumer Protection Act, 1986 which, inter alia, reads as under:

(4) For the purposes of this section, the District Forum shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely;-

(i) the summoning and enforcing attendance of any defendant or witness and examining the witness on oath;

(ii) the discovery and production of any document or other material object producible as evidence;

(iii) the reception of evidence on affidavits;

(iv) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;

(v) issuing of any commission for the examination of any Witness; and

(vi) any other matter which may be prescribed.

2. Based upon the aforesaid provision, it is contended that since Order 6 Rule 17 read with Section 151 of the CPC has not been made applicable to the proceedings under the consumer Protection Act, the Court does not have the jurisdiction and power to grant amendment.

3. The Forum has been created as an alternative dispute redressal forum. Nevertheless, the nature of proceedings before the Forum continue to be that of civil nature. With a view to achieve speedy justice entire CPC has not been made applicable, proceedings being summary in nature, Hence some of the relevant provisions have been specifically applied by virtue of Section 13(4) of the Consumer Protection Act, 1986. Since proceedings under the Consumer Protection Act are primarily of civil nature and it being the Court of civil jurisdiction it does have the inherent power to do justice. In absence of any specific bar, in appropriate cases, it can exercise such power to allow amendment to do justice. Denial of such power to the Court of civil jurisdiction, will be traversary of justice. The Apex Court while considering the provisions of Section 151 of the CPC in the context of inherent powers, in case of Manohar Lal Chopra Vs. Rai Bahadur Rao Raja Seth Hiralal, observed as under:

The Section itself says that nothing in, the Code shall be deemed to limit or otherwise affect the inherent power of the Court to make orders necessary for the ends of justice. In the face of such a clear statement, it is not possible to hold that the provisions of the Code control the inherent power by limiting it or otherwise affecting it. The inherent power has not been conferred upon the Court; it is a power inherent in the Court by virtue of its duty to do justice between, the parties before it.

4. I am not in agreement with the contention of the learned Counsel for the petitioner that the Consumer Forum has no power or authority to allow amendment.

5. In so far as the second argument that by virtue of impugned order nature of the proceedings has been changed, is concerned, the same is also without any substance. I have perused the impugned order. The Court has only allowed substitution of the amount under four heads already incorporated in the complaint. This does not in any manner change the nature of the proceedings of the complaint.

6. I do not find any merit in this petition which is Accordingly dismissed.