
(2015) 10 NCDRC CK 0001

In the National Consumer Disputes Redressal Commission

Case No : 2578 of 2015

AVTAR SINGH

APPELLANT

Vs

ONKAR SINGH @ KAARI

RESPONDENT

Date of Decision : 19-10-2015

Acts Referred:

Constitution of India, Article 226

Citation : (2015) 10 NCDRC CK 0001

Hon'ble Judges : J M Malik, S M Kantikar

Advocate : Rajat Sharma

Final Decision : Petition dismissed

Judgement

1. Shri Avtar Singh, complainant runs a shop of cement and hardware (saria). He approached Onkar Singh, opposite party, who runs UK Digital Studio at Main Road, Chankoya and availed his services of still photographs and movie making. It was agreed between the parties that opposite party would charge a sum of Rs.21,000/- on the occasion of marriage of his son, Tirath Singh. The marriage took place on 26-09-2012. The petitioner paid a sum of Rs.15,000/- as advance in cash to the opposite party. It transpired that the photographs were of dull prints and movie was not of HD quality. The complainant asked to change the photographs and convert the movie in HD quality but the OP refused.

2. On other occasion, the OP purchased hardware material in the sum of Rs.79,010/- from the complainant. After some time he returned the material worth Rs.16,258/-. The OP did not pay the rest of the amount to the complainant but gave a slip showing the huge and exaggerated amount of photography and video making details in the sum of Rs.77,675/-. The OP gave a sum of Rs.70/- and informed the complainant that now nothing is due against him. The complainant repeatedly demanded the rest of the amount in vain. Ultimately, he filed complaint before the District Forum with the prayer that the opposite party be directed to pay a sum of Rs.56,682/- to the complainant and a sum of Rs.25,000/- be awarded as compensation. The OP denied all these allegations.

3. The District Forum allowed the complaint. However, the State Commission accepted the appeal filed by the OP and made the following observations: "Basically it is a matter with regard to rendition of the accounts otherwise no evidence has been produced on the record by the complainant that the Albums and the DVDs prepared by the OP were not upto the mark. In case the dispute between the parties purely of the rendition of the accounts then it does not fall within the purview of the Consumer Fora and it should have been adjudicated before the Civil Court. Under the CP Act, the Consumer Fora are to deal with the complaints for deficiency in services or unfair trade practices, with regard to deficiency in services, the complainant has not been able to prove on the record that on the basis of services provided by the OP to the complainant, who prepared the photographs and videos of the marriage of the son of the complainant, there was any deficiency in services but basically the dispute between the parties is with regard to rendition of the accounts because some material was purchased by the OP from the complainant, therefore, it is not a consumer dispute but it is a Civil dispute and it would have been appropriate to refer the matter to the Civil Court. This point was not rebutted by the respondent, who was present in person."

4. We have heard the counsel for the complainant/petitioner at the time of admission of this case. The counsel for the petitioner candidly admitted that the above said transactions were done orally. There is no documentary evidence to support both the parties. It must be borne in mind that both the parties were indulging in illegal trade practices. No bills were issued, particularly by the complainant. It is done to avoid income tax and sales tax. The clear picture has not yet emerged. It is rudimentary principle of jurisprudence that documentary evidence will always get preponderance over the oral evidence because it is well known maxim of law that men may tell lies but the documents cannot.

5. The respondent has failed to bolster his case with cogent, plausible and unflappable evidence. The revision petition is without merit and the same is, therefore, dismissed.