

(2006) 07 NCDRC CK 0071

In the National Consumer Disputes Redressal Commission

BABY JOSEPH

APPELLANT

Vs

V.S.GOPALAKRISHNA PILLAI

RESPONDENT

Date of Decision : 03-07-2006

Acts Referred:

Citation : 2006 3 CPJ 408

Hon'ble Judges : K.S.Gupta , Rajyalakshmi Rao J.

Final Decision : Revision Petition dismissed

Judgement

1. THIS revision is directed against the order dated 17.9.1996 passed in appeal No. 258/1996 by Kerala State Consumer Disputes Redressal Commission, Thiruvananthapuram dismissing appeal against the order dated 17.12.1993 of a District Forum whereby in Complaint Case No. 15/92 the petitioner/opposite party was directed to pay a sum of Rs. 4,920 to the respondent/complainant.

2. RESPONDENT filed complaint, inter alia, alleging that he purchased 48 rubber saplings for Rs. 12.50 per sapling from the petitioner vide bill No. 23 dated 20.7.1990. Saplings supplied by the petitioner were of different varieties and of lesser yield. Complaint claiming compensation filed by the respondent was contested by the petitioner. In the written version the purchase of rubber saplings by the respondent was not disputed but it was alleged that rate was Rs. 8 per sapling. It was pleaded that petitioner has been dealing only in two varieties of rubber saplings i.e., PB 311 and RR. II. 105. Expenses for growing up different varieties of saplings being the same the petitioner was not benefited if a variety other than PB 311 was supplied. Liability to pay the compensation claimed was denied. As may be seen from the order of District Forum on the application(s) filed by respondent, Development Officer, Rubber Board, Ministry of Commerce, Government of India, was appointed as local Commissioner to ascertain the varieties of rubber plants sown by the respondent in the year 1990 upon his land and the yield thereof. Taking note of two reports Exhibits A-4 and A-5 given by the said authority the District Forum passed the direction to pay aforesaid amount of Rs. 4,920 towards compensation by the petitioner.

Contention advanced by the learned Counsel of petitioner was that the Local Commissioner was appointed by the District Forum after more than two years of the planting of rubber saplings and there was every likelihood of saplings being destroyed or substituted in between by the respondent. Further, Fora below did not consider the report dated 27.10.1990 (copy at pages 15-16) of the Rubber Board which would show that the variety of saplings planted in 1990 by the respondent was PB 311. It was pointed out that this report was submitted in connection with grant of subsidy to the respondent. Copy of the report dated 16.12.1992- Exhibit A-4 is at pages 11-14. This would show that on inspection of the plot of respondent by the Local Commissioner on 14.12.1992 he had found 14 Nos. of PB 311, 1 No. of PB 235, 27 Nos. of PB 217, 4 Nos. of RR II 105 and 1 No. of RR IM 600, in all 47 plants there. This report further notices that no subsequent vacancy was filled up after 1990 even though the growth was not uniform. Though a copy of the report- Exhibit A-5-has not been filed but from the order of District Forum it may be noticed that the loss of yield to the respondent for five years because of inferior quality of saplings was 246 kgs. Petitioner seems to have not filed objections to any of these reports nor did he choose to cross-examine the Local commissioner giving the two reports. That being so, the District Forum had rightly passed the award based on Exhibits A-4 and A-5-reports. Much reliance cannot be placed on the report dated 27.10.1990 as it was submitted in connection with grant of subsidy and question of variety of sapling sown was not in issue at that stage. It was for the petitioner to have led cogent evidence to show that there had been substitution of saplings by the respondent after purchase of saplings and before inspection by the Local Commissioner. Petitioner has not adduced any such evidence. There is, thus, no illegality or jurisdictional error in the orders passed by Fora below warranting interference in revisional jurisdiction under Section 21(b) of C.P. Act, 1986.

3. ACCORDINGLY, revision petition is dismissed with cost of Rs. 3,500 to the respondent. Revision Petition dismissed.