

(2006) 06 NCDRC CK 0028

In the National Consumer Disputes Redressal Commission

Braj Kishore Singh

APPELLANT

Vs

THAKUR PRASAD GUPTA

RESPONDENT

Date of Decision : 02-06-2006

Acts Referred:

Citation : 2006 3 CPJ 131

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

Final Decision : Revision Petition dismissed

Judgement

1. PETITIONERS were the opposite parties. Respondent/complainant alleged that he had kept 8.5 quintals of potatoes in the cold storage of petitioner on 29.4.1997. On 30.3.1997 he had paid Rs. 100 as reservation fee to the petitioners. On 5.10.1997 the respondent visited the cold storage to take back the potatoes but he was shown rotten potatoes and was asked to collect them if he so desired. Alleging deficiency in service, the respondent thereafter filed complaint claiming amount of Rs. 8425. The petitioners did not file written version. By the order dated 28.2.1998 the District Forum allowed the complaint with direction to the petitioners to pay amount of Rs. 4,250 towards damages and cost to the respondent. Appeal filed against District Forum's order was dismissed by the State Commission by the order dated 1.2.2006. It is this order which is being challenged by the petitioner in this revision.

2. MAIN thrust of argument of Mr. Mritunjay Kumar Singh for petitioner, is that the District Forum decided the complaint in haste; Forum did not allow opportunity to the petitioners to defend the case and award passed was not based on evidence. From the copy of the order sheet of District Forum filed during the course of argument, it may be seen that on 13.11.1997, notice was ordered to be issued to the petitioners returnable on 22.12.1997. On that date though the respondent was present but nobody was present for petitioners and because of strike the case was postponed to 4.2.1998. On 4.2.1998 the case was postponed to 28.2.1998 to enable the petitioners to file written version. However, on that date neither any one was present on behalf of petitioners nor written

version was found to have been filed by them. The District Forum under summary jurisdiction made the award in the manner noticed above against the petitioners. Sub-section (2) (1)(a) of Section 13 of Consumer Protection Act, 1986 (for short the "Act") says that written version is to be filed by the opposite party within 30 days or such extended period not exceeding fifteen days as may be granted by the District Forum. Petitioners were served with the notice for 22.12.1997 and till 28.2.1998 they did not file any written version nor any one was present for them on 28.2.1998. In view of said time limit laid by above Sub-section (2)(1)(a) of Section 13 and the said facts the petitioners cannot be heard to say that they were not provided opportunity to file written version. Award passed by District Forum was based on the material available before it. Defence now sought to be raised by the petitioners cannot be gone into for the simple reason that the same was not before the District Forum. There is no illegality or jurisdictional error in the orders passed by Fora a below warranting interference in revisional jurisdiction under Section 21(b) of the Act. Revision petition is, therefore, dismissed. Revision Petition dismissed.