
(2001) 05 NCDRC CK 0002

In the National Consumer Disputes Redressal Commission

C P Moosa

APPELLANT

Vs

Chowgle Industries Ltd

RESPONDENT

Date of Decision : 31-05-2001

Acts Referred:

Citation : 2001 2 CPC 474 : 2001 2 CPR 92 : 2001 3 CPJ 9

Hon'ble Judges : L.MANOCHARAN , R.VIJAYAKRISHNAN J.

Judgement

1. THE complainant in O.P. No. 572/99 on the file of the Consumer Disputes Redressal Forum, Kozhikode is the appellant.

2. THE complaint came to be dismissed for default. It is submitted by the learned Counsel for the appellant that the complaint was posted to 12.11.1999 for the version by the opposite parties on which date the second opposite party filed his version. On behalf of the complainant a Counsel was to enter appearance on that day. Therefore, according to him the dismissal of the complaint under law cannot be sustained. The respondents Counsel sought to support the dismissal. In the statement of facts in the appeal memorandum it is stated, on 12.11.1999, on which date the complaint came to be dismissed, the complaint was posted for the filing of the version by the opposite parties. That submission is not challenged before us. On a date when the matter comes up only for the filing of version by the opposite party, the complainant was not required to perform anything for the progress of the case. Default could arise when because of the absence of the complainant the steps contemplated on that day could not be taken or proceed with the complaint. Having regard to the said position, the dismissal of the complaint for default on that day when the complaint was posted only for the filing the version by the opposite party, cannot be supported.

3. IN that view, the impugned order is set aside and the matter is remitted to the District Forum, it shall restore the complaint to file and after giving opportunity to both parties will proceed to dispose of the matter in accordance with law. There will be no order as to costs in this appeal. Order set aside.