

(2000) 05 NCDRC CK 0020

In the National Consumer Disputes Redressal Commission

CHINNAKULANDAI

APPELLANT

Vs

THOMAS HOSPITAL AND LEPROCY CENTRE

RESPONDENT

Date of Decision : 09-05-2000

Acts Referred:

Citation : 2000 3 CPJ 179

Hon'ble Judges : M.S.Janarthanam , S.P.Sivaprakasam , Banumathi Baskaran J.

Final Decision : Complaint dismissed in limine

Judgement

1. THIS action came up for admission before us today. We heard learned Counsel Mr. P. Mani. We perused the averments in the complaint and other documents filed.

2. FROM such a perusal we are able to perceive that the complainant, namely Chinnakulandai got an operation for a cyst in the opposite party hospital in June, 1991. Even subsequent to the operation, she was experiencing pain in the abdomen. Consequently, she had also taken treatment that the opposite party's hospital for some time. Laterly, she, it is said, went to Government General Hospital, Madras, for taking treatment for the melody with which she was suffering. Only during that time, she was able to understand that one of her kidneys had been removed. It is also alleged that she did not undergo any operation other than the one she had undergone in the opposite party's hospital for the removal of the cyst. Therefore, she would say that one of her kidneys had been clandestinely removed by the opposite party's hospital under the facade of performing an operation for a cyst. The cause of action arose in 1991 in the sense of the operation having been performed on her by the opposite party in that said year. She has resorted to the present action by filing a complaint before this Commission only on 30th August, 1999. The limitation period as prescribed by Section 24A of the Consumer Protection Act, 1986 is that the complaint must have to be filed within 2 years from the date on which the cause of action has arisen. The cause of action in the instant case having arisen in the year 1991 and the complaint having been filed in the year 1999, it goes without saying that the

action as instituted is barred by time as per the sanguine provisions adumbrated under Section 24A of the Consumer Protection Act, 1986.

This apart, as already stated clandestine removal of the kidney, will give raise to an action in criminal law, i.e., say for the theft of the kidney and such clandestine removal will by no stretch of imagination be construed as deficiency in service on the part of the opposite party even assuming if there is such clandestine removal of the kidney. The material placed on record further do not disclose that there was any deficiency in service on the part of the opposite party hospital in performing the operation for the cyst.

3. FOR the reasons above, the complaint deserves rejection in limine and we accordingly do so. Complaint dismissed in limine.