
(2014) 06 KL CK 0020
In the High Court Of Kerala
Case No : W.P.(C). No. 3352 of 2012 (V)

Confident Projects (India) Pvt. Ltd.

APPELLANT

Vs

A. Prasad Kumar

RESPONDENT

Date of Decision : 17-06-2014

Acts Referred:

Citation : (2014) 06 KL CK 0020

Hon'ble Judges : A.M. Shaffique, J

Bench : Single Bench

Advocate : Abraham Mathew, Advocate (Vettoor), Advocate for the Appellant; Aswin Gopakumar, Sri Praveen H., Sri Anwin Gopakumar and Smt. Kala G. Nambiar, Advocates for R1, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

A.M. Shaffique, J.—Petitioners challenge the action of the Consumer Disputes Redressal Forum alleging that proper opportunity has not been granted for adducing evidence.

2. The facts involved in the case would disclose that the petitioners are the respondents in C.C. No. 545/2010 pending before the Consumer Disputes Redressal Forum, Ernakulam. The complainant before the Forum is the 1st respondent, who has filed a proof affidavit. According to the petitioners, though the 1st respondent was cross-examined, the cross-examination was not completed. Hence the petitioners filed an application for recalling the complainant for further cross examination, which was not allowed by the Forum on a finding that the 1st respondent was sufficiently cross examined. The evidence was thereafter closed. Petitioners filed another application, Ext. P5, seeking to re-open the evidence to enable the opposite party, ie. the petitioners, to adduce evidence. This, according to them, was not considered by the District Forum.

3. Learned counsel for the 1st respondent would submit that there is no

necessity for this Court to interfere with the proceedings of the District Forum in so far as Consumer Protection Act, 1986 provides an appellate remedy. Reference is also made to the judgment of the Supreme Court in Cicily Kallarackal Vs. Vehicle Factory, .

4. Taking into consideration the factual and legal aspects involved, the question to be considered is whether this Court can exercise jurisdiction in respect of the matter as projected by the petitioners.

5. As far as recalling the complainant for further cross examination, the Forum was of the opinion that the deponent was sufficiently cross examined. In that view of the matter, being a summary proceeding, it is not incumbent on the Forum to permit lengthy cross examination by the petitioners. At any rate, if there is any lacuna in the evidence adduced and if the petitioners are of the opinion that further cross examination was actually required, such issues can be taken up after final orders are passed in a proper appeal under the Statute.

6. Counsel for the 1st respondent would further submit that the petitioners rushed to this Court immediately after filing Ext. P5 and the Forum did not have any occasion to consider the same in accordance with the procedure prescribed. It is very unfortunate that this writ petition has been pending for the last two years and the entire proceedings had been stayed when the Consumer Forums are expected to dispose of matters as expeditiously as possible.

7. Therefore, there is substance in the argument of the learned counsel for the 1st respondent, taking into consideration the overall factual situation involved in the matter, since the complaint of the petitioners is regarding violation of principles of natural justice, I think that appropriate directions can be issued in this matter, though an alternate remedy is available under the Statute.

8. In the result, this writ petition is disposed of as under:

(1) The Consumer Forum shall consider Ext. P5 and pass appropriate orders.

(2) The entire proceedings shall be completed within three months from the date of receipt of a copy of this judgment.