

(2004) 03 NCDRC CK 0035

In the National Consumer Disputes Redressal Commission

DILIP DAMODAR SOPARKAR

APPELLANT

Vs

NETWORK CONSTRUCTION PVT. LTD.

RESPONDENT

Date of Decision : 26-03-2004

Acts Referred:

Citation : 2004 3 CLT 388 : 2004 4 CPJ 64

Hon'ble Judges : M.S.Rane , R.N.Varhadi J.

Advocate : Priyanka Sinha , Shah , Sanghi

Judgement

1. -MS. Priyanka Sinha i/b Shah and Sanghi for O.P. applies for time for filing written statement. However, it is noticed that in the process served by this Commission time stipulated for the same was 13.2.2003. So it is nearly more than 13 months were available to the O.P. for filing the written statement, but same has not been done. Our attention has been drawn to the reliefs claimed and in particular page No. 42-A, which mentions particulars of claim of the complainant being the subject matter of the complaint herein. Complaint has been filed claiming sum of Rs. 1,14,904/- being the excess amount recovered by the O.P. Complainant has claimed damages and compensation respectively for Rs. 3,00,000/- and Rs. 2,00,000/- and, therefore, has made up the claim which is above Rs. 5 lakhs.

2. HOWEVER, as held by the National Commission in the cases of Shahbad Co-operative Sugar Mills v. National Insurance Co. Ltd. and Ors., reported in II (2003) CPJ 81 (NC)=2003 CTJ 453 (CP) (NCDRC) and in the case of Vijay Shankar v. Mandeep Singh & Ors., reported in II (2003) CPJ Page 170 (NC) and as recently held by us in the group of complaints being Complaint Nos. 233, 234 and 235/2003 in the case of Mr. Ramesh Unhavane & Ors. v. M/s. Rapid Developers & Ors., decided on 20th November 2003, the benefits claimed either by way of interest or compensation not to be added for the purpose of determination of the valuation of the subject matter of the complaint for the purpose of pecuniary jurisdiction. In view thereof, we find that the claim in the complaint is not maintainable in view of valuation of subject matter being less

than pecuniary jurisdiction of this Commission.

We, therefore, order return of the complaint to the complainant for presentation before appropriate Forum. ORDER (1) We order return of the complaint to the complainant for want of pecuniary jurisdiction. (2) Office shall return the complaint to the complainant on 1.4.2004 and shall retain one set of complaint with it. (3) Complainant or his authorised representatives shall arrange to receive the same without fail. (4) Two weeks" time will be available thereafter to the complainant to approach before the appropriate Forum. (5) It is clarified that complainant will be entitled to the benefit of provisions of Section 14 of Limitation Act for the purpose of limitation covering the period when the matter remained pending on the file of this Commission. (6) O.Ps. shall pay cost for delay in filing the written statement quantified at Rs. 1,500/- to be paid as condition precedent within 3 weeks from today. (7) O.Ps. are permitted to file written statement before Central Mumbai District Forum, where the complaint is to be filed and which written statement shall be filed on 29.4.2001 before the District Forum and Central Mumbai District Forum shall receive and accept the written statement on proof of satisfaction of order of payment of cost. Copy thereof shall also be furnished to the complainant by the same date. (8) Time is granted to the complainant to file rejoinder on 20.5.2004. Complainant shall furnish copy thereof to the O.Ps. by the same date. (9) Parties shall obtain further directions from the District Forum. (10) Copies to be furnished to the parties.

Complaint returned.