

(1999) 07 SC CK 0063

In the Supreme Court Of India

Case No : Civil Appeal No. 2265 Of 1992

Indian Oil Corporation

APPELLANT

Vs

Lakshmi Shankaranarayan and Others

RESPONDENT

Date of Decision : 21-07-1999

Acts Referred:

Citation : (1999) 9 SCC 226

Hon'ble Judges : S. Saghir Ahmad, J; R. P. Sethi, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. The appeal filed by the present appellant before the National Consumer Disputes Redressal Commission was disposed of in their absence on 25-10-1991 by the following order:

"The appellant - the Indian Oil Corporation - is not present either by advocate or by any authorised representative when the case is called for hearing. We have gone through the facts of the case and we find that the order passed by the State Commission is quite just and fair and does not contravene any settled principle of law. The compensation awarded by the State Commission is also fair, proper and adequate and hence we confirm the order of the State Commission and dismiss First Appeal No. 113."

2. Subsequently, when application was given for recall of the order so that the appellant may be heard on merits, the Commission passed the following order on 27-11-1991.

"The Order dated 25th October, 1991 passed by this Commission was not one dismissing the appeals for default but was an order dismissing the appeals on the merits after consideration of the cases on the merits. Such being the position, there is no question of restoration of the appeals and the present application is misconceived. This application is, therefore, dismissed."

3. This application, incidentally, was filed on the same day on which the order dated 25-10-1991 was passed but the application was rejected on the ground that the appeal was decided on merits and was not dismissed in default.

4. On 6-4-1992, this Court passed the following order in this appeal:

"Issue notice on the question as to why the order under appeal should not be set aside and appeal remitted to the Appellate Commission for fresh disposal in accordance with law after affording an opportunity to the appellant to be heard.

There shall be an interim order of stay, subject to the appellant depositing 50% of the damages awarded by the State Commission. If 25% has already been deposited pursuant to the order of the Appellate Commission, the sum shall be deducted out of the 50%. Deposit to be made within four weeks from today.

5. We have heard learned counsel for the appellant as also for respondents.

6. The National Commission while disposing of the appeal on 25-10-1991 has merely upheld the order passed by the State Commission without giving any reasons for which it thought the order of the State Commission was proper and valid. In fact, the counsel for the appellant was not present and on the same day about 12.00 noon the application for recall of that order is said to have been filed, but the Commission refused to entertain the same on the ground that the appeal was dismissed on merits and not for default. Since no reasons have been given why the National Commission thought that the State Commission's order was just and proper, we feel that it was an ex-parte order which can hardly be sustained.

7. We, therefore, allow the appeal, set aside the order dated 25-10-1991 passed by the National Commission and remand the matter to the National Commission for rehearing and disposing of the appeal on merits in the light of the observations made above and in accordance with law. There will be no order as to costs.