
(2013) 05 NCDRC CK 0030

In the National Consumer Disputes Redressal Commission

Kiran W/O Yugal Kishore Bhattad , Naval Kishore S/O
Mohanlal Bhattad, Both R/O Tekadi Road, Sitabuldi, Nagpur

APPELLANT

Vs

M/S Shrinivas Agrotech India Limited, , Jaiwant Madhavrao
Ingle, Director Of M/S. Shrinivas Agrotech India Ltd, R/O 18,
Hill Top

RESPONDENT

Date of Decision : 30-05-2013

Acts Referred:

Citation : 2013 0 NCDRC 484 : 2013 3 CPJ 54

Hon'ble Judges : V.B.GUPTA , Rekha Gupta J.

Judgement

1. BEING aggrieved by order dated 04.12.2012, passed by State Consumer Disputes Redressal Commission, Maharashtra Circuit Bench at Nagpur (for short, "State Commission ") petitioners/complainants have filed this revision petition under Section 21(b) of the Consumer Protection Act, 1986 (for short, "Act ").

2. BRIEF facts are that petitioners filed a complaint before District Consumer Disputes Redressal Forum, Nagpur (for short, "District Forum ") on the ground that Respondent no.2/O.P.No.2 approached them in the year 1999 for making investment in the tree plantation. Accordingly, petitioners invested sum of Rs.58,000/- and Rs.50,000/- respectively, in the scheme floated by the respondent. Thereafter, further sum was paid by them but no tree plantation was done nor respondents followed the terms and conditions of the agreement. The complaint was contested by the respondents.

3. DISTRICT Forum, vide order dated 6.11.2003, partly allowed the complaint and passed the following order; "2. The opposite parties shall not allot the another plots to the complainants in the same area admeasuring same sq. ft. They shall execute the sale deed of these plots and shall bear the cost of execution. OR. (i) The opposite parties shall refund back the amount of Rs.40,000/-to each complainant along with 12% interest, (ii) The interest shall carry from the receipt of the payment till its realization ".

4. THEREAFTER , petitioners filed a Misc. application No.168 of 2013 under

Section 25 read with Section 27 of the Act for taking action against the respondent. Notice of this application was duly served upon the respondents. On their behalf one advocate also appeared and filed his Vakalatnama and moved an application for adjournment. Later on, respondent did not appear. District Forum, vide order dated 01.07.2007, partly allowed the petitioners' application and Recovery Certificate under Section 25 of the Act was ordered to be issued, besides this petitioners were awarded damages as well as cost for non compliance of the order of the District Forum. Not satisfied with the order passed by the District Forum, petitioners filed an appeal before the State Commission against order dated 01.07.2007 of the District Forum.

5. ON 4.12.2012, when petitioners' appeal came up for hearing before the State Commission, they were not present and as such their appeal was dismissed in default.

6. NOW petitioners have filed the present revision petition against the impugned order of the State Commission. Later on, petitioners have sent application dated 2.3.2013 by post stating that they are unable to engage a counsel and are not in a position to argue the matter and their presence may be exempted and matter may be decided in accordance with law.

7. ON 3.5.2013 after perusing the record, we have reserved the order.

8. IMPUGNED order under challenge was passed by the State Commission, in the execution proceedings. As per Section 27 of the Act, only appeal lies against any order passed in the execution proceedings. However, petitioners have filed revision petition against the impugned order, which on the face of it is not maintainable. Section 27A of the Act reads as under; " Appeal against order passed under section 27. (1) Notwithstanding anything contained in the Code of Criminal Procedure 1973(2 of 1974), an appeal under section 27, both on facts and on law, shall lie from--- (a) the order made by the District Forum to the State Commission (b) the order made by the State Commission to the National Commission; and (c) the order made by the National Commission to the Supreme Court . (2) Except as aforesaid, no appeal shall lie to any court from any order of a District Forum or a State Commission or the National Commission. (3) Every appeal under this section shall be preferred within a period of thirty days from the date of an order of a District Forum or a State Commission or, as the case may be, the National Commission: Provided that the State Commission or the National Commission or the Supreme Court, as the case may be, may entertain an appeal after the expiry of the said period of thirty days, if, it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.) ".

9. SINCE , specific remedy by way of an appeal under Section 27-A of the Act has been provided, present revision petition under Section 21(b) of the Act is not maintainable. Accordingly, this revision petition stand dismissed.

10. HOWEVER , petitioners can seek appropriate relief before the appropriate

forum, if so desire.