

(2002) 07 NCDRC CK 0007

In the National Consumer Disputes Redressal Commission

K.M.JAMALUL MALIK

APPELLANT

Vs

UNITED INDIA INSURANCE COMPANY Limited

RESPONDENT

Date of Decision : 09-07-2002

Acts Referred:

Citation : 2003 1 CPJ 558

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna , Rachna J.

Final Decision : Appeal allowed

Judgement

1. THIS is an appeal against the judgment and order dated 12.5.1997 passed by District Consumer Forum, Jhansi in Complaint Case No. 282/1994.

2. IT is not necessary for us to mention the facts of the case because the matter has been heard by the learned District Forum and it has been observed by it that there are certain complicated questions of law and facts involved in this case and there are hundreds of documents on record and the matter cannot be decided in these summary proceedings. IT has also been mentioned that the oral evidence has to be adduced and the witnesses have to be examined and cross-examined by the parties. The learned Counsel for the appellant has argued that three Surveyors were appointed in this case and the Sales Tax Return, of which a mention has been made in the judgment, was also filed by the parties. There is no question of genuineness or otherwise of the documents and it could have been gone into by the Surveyor after visiting the Sales-tax Deptt. We agree with the contention of the learned Counsel for the appellant. Merely by saying that certain complicated questions are involved or some documents have been filed, the jurisdiction of District Forum cannot be ousted. There is no question of oral evidence and examination or cross-examination of the witnesses. Under the Consumer Protection Act the evidence has to be led on affidavits and in very rare cases the permission will be given for examination and cross-examination of the witnesses. The learned District Forum has not indicated as to on what point the witnesses will have to be examined or cross-examined. Therefore, the judgment of the learned District Forum directing the complainant to file his complaint

before Civil Court is not justified and deserves to be set aside. ORDER The appeal is allowed. The judgment and order of the learned District Forum are set aside and case is remanded to the District Forum for trial according to law after giving opportunities to both the parties. Let copy of this order be sent to District Forum, Jhansi immediately. The parties shall appear before the District Forum on 23.8.2002. Let copy of this order be made available to the parties as per rules. Appeal allowed.