

(1994) 07 NCDRC CK 0018

In the National Consumer Disputes Redressal Commission

K.M.THOMAS

APPELLANT

Vs

MANAGING DIRECTOR, HINDUSTAN CIBA-GEIGY LTD.

RESPONDENT

Date of Decision : 26-07-1994

Acts Referred:

Citation : 1994 0 NCDRC 67 : 1994 2 CPC 168 : 1994 2 CPR 681 : 1994 3 CPJ 36 : 1995 1 CLT 101

Hon'ble Judges : V.BALAKRISHNA ERADI , Y.KRISHAN , B.S.YADAV J.

Advocate : N.J.ANTONY , S.S.KUMAR , K.K.MARWAH , M.A.FIROZ

Judgement

1. THIS is an appeal against the order of 10th June, 1992 in Original Petition No. 115 of 1990 passed by the State Commission of Kerala in which the appellant herein was the complainant and the respondents were the Opposite parties.

2. THE appellant-complainant is a planter of pepper. He purchased 200 gm. of Ridomil on 23.8.89 and applied it on the pepper vines on the same date. But the pepper vines withered and dried up. The appellant (complainant) brought a complaint before the State Commission against the respondent manufacturer on the ground that Ridomil was unable to save the pepper vines from fungus and therefore, he alleged that Ridomil manufactured and supplied by the respondents- Opposite Parties was defective and that they were guilty of unfair trade practice attracting the mischief of the Consumer Protection Act. The State Commission in its order has brought under following facts: (i) Ridomil is sold by the Opposite Party after getting the approval of the Government of India and Government of Kerala. (ii) Ridomil is used for protecting pepper vines against fungus attack. It is intended to be used as a preventive measure and not as a treatment for the disease. "The Opposite Parties also have never claimed that Ridomil can cure quick-wilt in pepper. Therefore, it has to be applied before the plant is contracted with the disease". (iii) As per the instructions, Ridomil has to be applied during the pre-monsoon period, but it was actually applied on 23rd August, 1989 after the plants had already contracted quick-wilt. Thus the appellant-complainant had not followed the instructions issued by the State Agricultural Department and the

respondent-opposite party to use Ridomil as a preventive by applying it before onset of monsoon in May and June. As the State Commission has pointed out, there is no treatment for quick-wilt. The treatment with Ridomil is only as a preventive and this fact was within the knowledge of the appellant-complainant and that he was only making a trial to save his plants, mortally effected by quick-wilt, by using Ridomil.

3. THE State Commission has also observed that the complainant was admittedly planting pepper for commercial sale, viz. a commercial purpose and as such the purchase allegedly defective Ridomil does not attract the provisions of the Consumer Protection Act.

4. THESE observations and conclusions are fully supported by the materials on record and hence we unhesitatingly agree with them. In the circumstances, we are unable to appreciate how Ridomil could be found to be defective merely because it was ineffective in sowing pepper vine affected by fungus. .

5. IN the light of what is stated above, we hold that there is no merit in this appeal. The same is dismissed.

6. THE order of the State Commission is confirmed. The complaint is frivolous, vexatious and in abuse of Consumer Protection Act. The appellant shall pay a sum of Rs. 3,000/- as costs to the respondent No. 1.