
(2014) 12 NCDRC CK 0099

In the National Consumer Disputes Redressal Commission

Madan Lal Sahu S/O Mayaram Sahu

APPELLANT

Vs

Shrishrimal Plantation Limited

RESPONDENT

Date of Decision : 10-12-2014

Acts Referred:

Citation : 2015 1 CPJ 266

Hon'ble Judges : K.S.CHAUDHARI J.

Advocate : H.CHANDRA SEKHAR , Ratnesh Kumar Shukla , ATUL JHA

Judgement

1. THESE revision petitions arise out of the single order of State Commission involving similar question of law, hence, decided by common order.

2. REVISION Petition No. 4682 -4683 of 2009 have been filed by Petitioners against order dated 6.10.2009 passed by Learned State Commission in appeal No. 232 of 2006 - Shrishrimal Plantation Limited Vs. Madanlal Sahu and appeal No. 264 of 2006 - Assistant Director, Horticulture Vs. Madanlal Sahu; by which, appeal No. 264 of 2006 was allowed and opposite party No. 3 was exonerated and in appeal No. 232 of 2006, awarded amount was modified.

3. REVISION No. 4684 -4685 of 2009 have been filed by Petitioners against order dated 6.10.2009 passed by Learned State Commission in appeal No. 233 of 2006 - Shrishrimal Plantation Limited Vs. Madanlal Sahu and Ors. and appeal No. 265 of 2006 - Assistant Director, Horticulture VS. Madanlal Sahu and Ors. by which Appeal No. 265 of 2006 was allowed and opposite party No. 3 was exonerated and in appeal No. 233 of 2006, awarded amount was modified. Brief facts of the case are that complainant filed Complaint No. 215 of 2004 against opposite parties and Learned District Forum vide order dated 10.5.2006 allowed complaint and directed all the three opposite parties to pay Rs. 2,26,803/p alongwith 6% p.a. interest and further awarded Rs. 5,000/ - for mental agony and Rs. 500/ - as cost of litigation. In Complaint No. 216 of 2004, Learned District Forum allowed complaint against all the three opposite parties and directed Opposite Parties to pay Rs. 2,45,543/ - alongwith 6% p.a. interest and further allowed Rs. 5,000/ - for mental agony and for Rs. 500/ - as cost of litigation. All the opposite

parties preferred appeals before Learned State Commission against both the orders of District Forum and Learned State Commission while accepting appeal of opposite party No. 3 dismissed the complaint against opposite party No. 3 and orders of District Forum were modified regarding opposite party No. 1 and 2 and in Complaint No. 215 of 2004, opposite party No. 1 and 2 were directed to pay Rs. 1,25,000/- instead of Rs. 2,45,543/- and in complaint No. 216 of 2004, opposite party No. 1 and 2 were directed to pay a sum of Rs. 1,05,000/- instead of Rs. 2,26,803/- against which these revision petitions have been filed by the petitioner/ complainant.

4. HEARD Learned Counsel for the parties and perused record.

5. LEARNED Counsel for Respondent No. 1 and 2 submitted that as matter has been finally settled in execution proceedings before the District Forum, Revision Petitions have become infructuous, hence, revision petitions be dismissed. On the other hand, Learned Counsel for Petitioner submitted that in execution proceedings, compromise was entered only to the extent of order passed by State Commission and for rest of the amount revision petitions filed by the petitioner are maintainable, hence, revision petition be decided on merits.

6. PERUSAL of record reveals that complainant filed execution petition before District Forum and during pendency of execution proceedings, both the parties filed application in both the cases containing similar contents which runs as under: - "1. That the Applicant and Non -Applicant have mutually agreed that the damages awarded by the Chhattisgarh State Consumer Dispute Redressal Commission would be paid in five (5) equal instalments. 2. That both the Applicant and Non -Applicant have mutually agreed that consequent to the receiving of the whole amount awarded by the State Commission, Raipur, the proceedings would terminate. 3. That both the Applicant and Non -Applicant mutually agree that after payment of whole amount, the Applicant or their legal heirs/ representatives would have no subsisting legal claims/interests. 4. That the Non -Applicant would make the payment through cheque by depositing the same before the Ld. District Consumer Grievance Redressal Forum, Durg, Chattisgarh."

7. PERUSAL of aforesaid application reveals that opposite party agreed to pay amount upheld by State Commission in five equal instalments and as per para 2 of the application, proceedings would terminate on receiving whole amount. Again in para 3, it has specifically been mentioned that after receipt of whole amount, Applicant or their legal heirs/ representatives would have no subsisting legal claims/ interests. This para clearly indicates that parties agreed to get the matter completely settled after receiving amount awarded by State Commission, meaning thereby, complainant agreed not to have any subsisting claim in the complaint after receiving amount awarded by State Commission. Once, complainant agreed to give up subsisting legal claim in the complaint after receiving amount awarded by State Commission, revision petitions filed by the petitioner become infructuous. I do not agree with the submission of Learned

Counsel for petitioner that only claims arising from order of the State Commission were to be terminated by this mutual consent settlement because had it been the intention, para 3 in the application would not have been inserted because termination of executing proceedings before executing court had already been mentioned in para 2 of the application.

8. IN the light of aforesaid discussion, I agree that on account of settlement between the parties, revision petitions have become infructuous and are liable to be dismissed as infructuous.

9. CONSEQUENT LY , Revision Petition Nos.4682 -4683 of 2009 and Revision Petition Nos. 4684 -4685 of 2009 filed by the petitioner are dismissed as having become infructuous.