
(1997) 07 NCDRC CK 0081

In the National Consumer Disputes Redressal Commission

MADHUKAR KAMDE

APPELLANT

Vs

ASALAM HUSSAIN

RESPONDENT

Date of Decision : 07-07-1997

Acts Referred:

Citation : 1997 3 CPJ 636 : 1998 1 CPC 480 : 1998 1 CPR 235

Hon'ble Judges : R.K.Verma , Saroj Rajwade , N.K.Vaidyas J.

Final Decision : Order set aside

Judgement

1. THIS is an appeal filed by the complainant against the order-dated 23.12.1995 passed by the District Forum, Chhindwara whereby the District Forum has dismissed the complaint as not maintainable.

2. IT is not disputed that the complainant availed of Pradhan Mantri Rojgar Yojna and obtained a loan of Rs. 1 lac from the Oriental Bank of Commerce for purchase of a typing machine costing Rs. 15,390/- and a Photostat machine costing Rs. 84,000/-. The Photostat machine was purchased from the opposite party No. 1 through the agency of the bank and that machine supplied was found to be an old machine, which the complainant refused to accept and the complainant asked for replacing the old machine by a new one. Since the machine was not replaced, the complainant had filed the complaint. The District Forum took the view that the photocopying machine purchased was for commercial purpose and as such the complainant was not a consumer whose complaint could be entertained by the Forum.

In the circumstances of this case, it could not be said that the machine purchased by the complainant was not for self-employment or for earning livelihood. The scheme under which the machine was purchased itself militates against the inference that the machine was purchased for commercial purpose since the loan under the scheme is meant to provide livelihood by self-employment. As such, the complainant has to be regarded as a "consumer" who was competent to file the complaint for adjudication by the District Forum. In this view of the matter, the order under appeal cannot be sustained and is hereby set

aside. The case is remanded to the District Forum for trial in accordance with law after due notice to the parties. There shall be no order as to costs. Order set aside. _____