

(1998) 08 SC CK 0130

In the Supreme Court Of India

Case No : Civil Appeal No. 5163 of 1995

Maharashtra Hybrid Seeds Co. Ltd.

APPELLANT

Vs

Alavalapati Chandra Reddy and Others

RESPONDENT

Date of Decision : 18-08-1998

Acts Referred:

Constitution of India, 1950 — Article 136
Consumer Protection Act, 1986 — Section 13(1)

Citation : (1998) 5 JT 536(1) : (1999) 1 MLJ 60 : (1999) 1 RLW 74 : (1998) 4 SCALE 582 : (1998) 6 SCC 738

Hon'ble Judges : M. M. Punchhi, C.J;K. Venkataswami, J

Bench : Division Bench

Advocate : Soli J. Sorabjee, S.M. Dhanuka and S.C. Birla, for the Appellant; D. Prakash Reddy and G. Prabhakar, for the Respondent

Final Decision : dismissed

Judgement

K. Venkataswami, J.—The appellant-Company, aggrieved by the summary dismissal of its Revision Petition No. 225 of 1993 on 27-7-1993 by the National Consumer Disputes Redressal Commission, New Delhi, has filed this appeal by special leave.

2. Respondents 1 and 2 moved the District Forum, Cuddapah, in Consumer Dispute No. 441 of 1991, complaining that the sunflower seeds produced by the appellant and sold through the third respondent, on sowing, did not germinate by reason of defects in the seeds. They claimed, apart from the cost of the seeds, a compensation of Rs 5000 per acre from the appellant. The claim was resisted, inter alia, contending that the Seeds Act, 1966 and the Rules framed thereunder being a complete Code, provides remedies to the aggrieved party and, therefore, the complaint preferred before the District Forum was not maintainable. It was also contended that the test to find out the correctness of the complaint regarding defective seeds as provided u/s 13(1)(c) of the Consumer Protection Act, 1986 has not been adopted and without that, the

appellant cannot be held liable for compensation. It was further contended that the complainants are not consumers inasmuch as the purchase of the seeds itself was for growing the sunflower plants for commercial purpose. The District Forum, on a consideration of the materials placed before it, held that the appellant was liable to pay compensation at the rate of Rs 2000 per acre in addition to the cost of the seeds.

3. Aggrieved by the order of the District Forum, the appellant-Company preferred an appeal before the State Commission, Andhra Pradesh at Hyderabad. The State Commission elaborately considered the contentions raised before it and ultimately affirmed the order of the District Forum. The further revision before the National Forum, as noticed above, was dismissed summarily.

4. We would have appreciated the National Forum, had it discussed the matter on merits and disposed of the same after considering the question of law raised before it. Unfortunately, the National Forum has summarily dismissed the revision petition. The question of law raised, namely, whether Respondents 1 and 2 were justified in moving the Consumer Forum for redressal on the facts of the case, is not free from doubt. However, we do not consider it necessary to decide that question of law in this case as the findings of the State Commission on facts stare at the appellant, which cannot be lightly brushed aside. The State Commission, on the materials placed before it, found as follows:

"In this case, the complainants alleged that they have purchased the seeds from the opposite parties. To this extent, there is no dispute. According to the complainants, they purchased the seeds and sowed them. The Agricultural Officer reported to the first opposite party on 22-11-1991 through a letter which mentioned that he sent the ryots of Lingual to them to purchase the sunflower seeds on permits. But those seeds have not germinated and that he personally went and saw. He therefore wrote the above letter asking the opposite parties to give compensation to them. It was further mentioned that they would be visiting the place on 27th. But they have not visited the place. To the aforesaid letter, no reply was sent by the opposite parties. Thus, it is clear that it is on the permit granted by the Agricultural Officer that the complainants purchased seeds from the opposite parties and that the same Agricultural Officer visited the land and found that there was no germination. In view of the letter written by the Agricultural Officer to the opposite parties to which they sent no reply, it is clear that the same seeds that were purchased from the opposite parties were sown and they did not germinate. In view of the aforesaid letter of the Agricultural Officer, the District Forum felt that the seeds need not be sent for analysis. Moreover, if the opposite parties have disputed that the seeds were not defective they would have applied to the District Forum to send the samples of seeds from the said batch for analysis by appropriate laboratory. But the opposite parties have not chosen to file any application for sending the seeds to any laboratory. Since it is probable that the complainants have sown all the seeds purchased by them, they were not in a position to send seeds for analysis. In these

circumstances, the order of the District Forum is not vitiated by the circumstance that it has not on its own accord sent the seeds for analysis by an appropriate laboratory.

* * * It is clear from the letter of the Agricultural Officer that the opposite parties in spite of their promise, never visited the fields of the complainants. The opposite parties did not adduce any material to show that the complainants did not manure properly or that there is some defect in the field. In the absence of such evidence and in view of the conduct of the opposite parties not visiting the fields and having regard to the allegation in the complaint that there were rains in the month of September 1991 and the complainants sowed the seeds, it cannot be said that there is any defect either in the manure or in the preparation of the soil for sowing sunflower seeds."

5. In the light of the above findings and in view of the conduct of the appellant in this case, we do not consider that we should exercise our jurisdiction under Article 136 of the Constitution of India to interfere with the order under appeal. Accordingly, we leave the question of law open to be decided in an appropriate case and dismiss the appeal on the facts of this case. There will be no order as to costs.