
(2014) 08 NCDRC CK 0005

In the National Consumer Disputes Redressal Commission

Manager, Vishvas Tyres

APPELLANT

Vs

Makanji Samji Mata

RESPONDENT

Date of Decision : 27-08-2014

Acts Referred:

Citation : 2014 3 CPR 743

Hon'ble Judges : V.K.JAIN , B.C.Gupta J.

Final Decision : Petition dismissed

Judgement

1. THE complainant and his brother who own separate trucks, contacted the petitioner for purchase of 14 tyres and deposited a sum of Rs.38,000/- in cash. The balance amount of Rs.2,00,000/- was paid by taking a loan from Sundaram Finance Ltd. The case of the complainant is that despite receiving Rs.2,38,000/-, the petitioner failed to deliver the tyres which it had sold to him and his brother. Being aggrieved from the failure of the petitioner to deliver tyres, the complainant approached the Bhuj District Consumer Disputes Redressal Forum (for short, the District Forum) seeking delivery of the said tyres besides compensation and cost of litigation.

2. VIDE order dated 18 -04 -2013, the District Forum directed the petitioner to deliver the tyres and also pay Rs.3,000/- towards compensation and Rs.2,000/- towards cost of litigation.

3. BEING aggrieved from the order of the District Forum the petitioner approached the Gujarat State Consumer Disputes Redressal Commission at Ahmedabad (for short, the State Commission) by way of an appeal. The said appeal having been dismissed vide impugned order dated 24 -06 -2013, the petitioner is before us by way of this revision petition. Since it is an admitted case of that the price of the tyres was duly received by the petitioner, the only disputed question of fact in this case was as to whether the petitioner had delivered the tyres to the complainant and/or his brother or not. The petitioner having admitted, receipt of the sale consideration, the onus was on him to prove that the tyres were duly delivered by him. There is no documentary evidence of

the tyres having been delivered to the complainant and/or his brother. Though invoices whereby the tyres were sold were filed, no proof of delivery of the said tyres was filed by the petitioner before the District Forum. In these circumstances it would be difficult to dispute that the petitioner has failed to prove the alleged delivery of tyres to the complainant and/or his brother.

4. EVEN otherwise, the question whether the tyres had been delivered or not was purely a question of fact and a concurrent finding of fact has been recorded by the District Forum as well as the State Commission that the said tyres were not delivered. Exercising our revisional jurisdiction, we will not be justified in interfering with the aforesaid concurrent finding of fact unless it is shown to be perverse. Considering that there is no documentary evidence produced before the District Forum as to the tyres having been delivered to the complainant and/or his brother by the petitioner, in our opinion, it cannot be said that no reasonable person acting on the material which was produced before the District Forum, could have recorded the finding which was recorded by the District Forum and later endorsed by the State Commission.

5. SINCE we find no merit in the revision petition we are not inclined to condone the delay in filing the revision petition. The revision petition as well as the application for condonation of delay in filing the revision petition are hereby dismissed.