(2004) 12 NCDRC CK 0049

In the National Consumer Disputes Redressal Commission

MEHAR PADMA AGENCIES APPELLANT

Vs

National Insurance Co. RESPONDENT

Date of Decision : 27-12-2004

Acts Referred:

Citation : 2005 2 CPJ 489 : 2005 2 CPR 343

Hon'ble Judges : I.Venkatanarayana , M.Shreesha J.

Final Decision : Appeal disposed of

Judgement

1. COMPLAINANT is the appellant. Aggrieved by the order of the District Consumer Forum, Visakhapatnam in C.D. No. 84/2002, the present appeal has been filed under Section 15 of the Consumer Protection Act, 1986.

2. THE facts leading to the filing of this appeal are set out as hereunder: THE complainant has approached the District Forum seeking for a direction to pay a sum of Rs. 1,00,000/- towards insurance claim and also to pay a sum of Rs. 10,000/- for mental agony and Rs. 25,000/- towards damages and costs of the complaint. The complainant is a pharmaceutical distributor doing business of selling medicines in wholesale and took an insurance policy from the opposite party. It is his case that a burglary took place in his shop and claimed insurance amount of Rs. 1,00,000/-.

First opposite party filed counter contending that the complainant failed to establish the theft by submitting documents to substantiate his claim. He filed the complaint only to avoid payment of instalments to the financial institution. The complaint is also frivolous and is liable to be dismissed.

3. SECOND opposite party filed a counter contending that it is an unnecessary party and no relief can be granted against it. It is also stated that the complainant was due a sum of Rs. 1,32,333/- by 31.3.2001 and also interest of Rs. 15,086/-. The District Forum based on Exs. A1 to A9 conducted a detailed inquiry and dismissed the complaint.

4. AGGRIEVED by the said order, the present appeal has been filed. The learned

Counsel for the appellant contended that the District Forum failed to take into consideration the exhibits and evidence adduced by the appellant. We do not see any force in this contention. We have gone through the record. The appellant except claiming the insurance from first respondent/first opposite party failed to produce any documents and prove the theft. It is also on record that the police have conducted a detailed inquiry and the SI of police reported that the complaint is false and ultimately closed the case as a false case. VII Munsif Magistrate has closed the F.I.R. as a false case. Ex. B2 is the memo issued by Commissioner of Police, Visakhapatnam to refer the case as false. It is also on record that the appellant took loan and he is due a sum of Rs. 1,32,333/- as on 31.3.2001 and also interest of Rs. 15,086/-.

5. IT is further submitted by the learned Counsel appearing for the appellant that in order to establish educational qualifications, the appellant has submitted his S.S.C. marks-sheet to second respondent/second opposite party. In the counter the second respondent stated that they have no objection to return the marks-sheet as it is only filed to know the educational qualifications at the time of obtaining the loan. We, therefore, direct the second respondent/second opposite party to return the marks-sheet to the appellant.

6. TAKING all these facts into consideration, we are convinced that the appellant has approached the District Forum with unclean hands and, therefore, the District. Forum has rightly rejected the complaint and we see no reason to interfere with the order of the District Forum. Since the second respondent in its counter has stated that they have no objection to return the marks-sheet, we direct the second respondent/second opposite party to return the marks-sheet to the appellant. In the result, the appeal is disposed of with the aforementioned direction. Appeal disposed of.