

(2017) 07 NCDRC CK 0011

In the National Consumer Disputes Redressal Commission

Case No : 2670 of 2016

M/S. AJMER AUTO AGENCY PRIVATE LIMITED THROUGH ITS
AUTHORIZED REPRESENTATIVE, JAI CHAND S/O. MOHAN LAL

APPELLANT

Vs

NIRMALA SHARMA, & ORS.

RESPONDENT

Date of Decision : 20-07-2017

Acts Referred:

Code of Civil Procedure, 1908, Order 1Rule 10 -
Consumer Protection Act, 1986, Section 21(b) - Jurisdiction of the National Commission

Citation : (2017) 07 NCDRC CK 0011

Hon'ble Judges : Rekha Gupta

Advocate : Dhruv Dwivedi

Judgement

1. The present revision petition has been filed against the judgment dated 15.07.2016 of the Rajasthan State Consumer Disputes Redressal Commission, Jaipur ("the State Commission") in First Appeal no. 14 of 2015.

2. The brief facts of the case as per the respondent no. 1/ complainant are that the respondent no. 1 had filed a complaint with the District Consumer Disputes Redressal Forum, Ajmer ("the District Forum") stating that the respondent no. 1 had purchased a second hand vehicle from the petitioner/ opposite party i.e., Ajmer Auto Agency Pvt. Ltd., under true value scheme but the original documents were not handed over to respondent no. 1 - herein - and the vehicle had not been transferred in her name. The complaint was contested by the petitioner on the ground that the vehicle was never sold by them under the true value scheme of the Maruti Suzuki India Ltd., The said vehicle originally belongs to one Mr Kartar Singh Rathore and the respondent no. 1 had directly purchased the said vehicle from Mr Kartar Singh Rathore. It was also submitted that the first registration of the vehicle would be made in the name of Mr Kartar Singh Rathore and then it could be transferred in the name of the respondent no. 1. During the pendency of the complaint, an application was filed by the petitioner -

herein - under order 1 rule 10 CPC praying that Mr Kartar Singh Rathore was a necessary party in the complaint and he should be made a party. The District Forum after hearing both the parties dismissed the application. The District Forum came to the conclusion that it was the version of the petitioner - herein that the vehicle was purchased by the respondent no. 1 from Mr Kartar Singh Rathore and on his version Mr Kartar Singh Rathore cannot be made a party.

3. The State Consumer Disputes Redressal Commission, Jaipur Bench no. 1 vide its order dated 15.07.2016 dismissing the appeal observed as under:

" We have heard the learned counsel for the revisionists. None appeared for non-revisionists. We have perused the record and we find that this revision petition has no merit. The respondent no. 1 in her complaint has alleged that she purchased the vehicle from Ajmer Auto Agency under true value scheme and it was her burden to prove this fact before the District Forum. She cannot be asked to implead Kartar Singh Rathore as a party against whom respondent no. 1 does not want any relief. If she is able to prove her allegations against the petitioner only then she succeeds otherwise the complaint can be dismissed. Thus, we do not find that Kartar Singh is a necessary party. There is no evidence on record that the said vehicle was purchased from Kartar Singh Rathore. Hence, the revision petition is liable to be dismissed.

In view of the above, the revision petition no. 14 of 2015 filed by Ajmer Auto Agency Pvt. Ltd. is dismissed.

The District Forum is directed to dispose of the complaint as per law as expeditiously as possible".

4. Hence, the present revision petition.

5. I have heard the learned Counsel for the petitioner Mr Dhruv Dwivedi. He contended that the petitioner was the authorised dealer of Maruti Suzuki India Ltd., and not the agent and acted merely as a facilitator on behalf of original owner, i.e., Mr Kartar Singh Rathore and respondent no. 1. He further contended that the car had not been sold under the true value scheme but was purchased by respondent no. 1 directly from Mr Kartar Singh Rathore. He further stated that if impleadment of Mr K S Rathore is not allowed there will be a multiplicity of cases as the petitioner will have to proceed against Shri K S Rathore as he was not cooperating in the matter. If the car has to be sold to Kartar Singh Rathore, first it has to be transferred first to his name and then Kartar Singh Rathore has to transfer the vehicle as also the registration certificate in the name of respondent no. 1. Hence, it is necessary that Mr Kartar Singh Rathore is impleaded as a party.

6. I have heard the arguments of the learned counsel for the petitioner and gone through the record. Complaint of the respondent is primarily against the petitioner and the relief is also sought only against the petitioner. It is for the petitioner to defend itself against the allegation of unfair trade practice and

deficiency in service. For this, he should not need the presence of Mr Kartar Singh Rathore. The State Commission has correctly mentioned in its order that respondent no. 1 cannot be directed to implead Mr Kartar Singh Rathore as a party as the respondent no. 1 has no complaint against him and from whom she does not want any relief. It is up to her to prove the allegation against the petitioner and the petitioner has to defend himself against her allegations.

7. In view of the discussion above, I find no jurisdictional error or material irregularity in the impugned order which may call for interference in exercise of powers under section 21 (b) of the Consumer Protection Act, 1986. Revision petition is, therefore, dismissed with no order as to costs.