

(2004) 12 NCDRC CK 0030

In the National Consumer Disputes Redressal Commission

NARSINHBHAI KUBERDAS PATEL

APPELLANT

Vs

RHONE PULENC AGRO CHEMICALS

RESPONDENT

Date of Decision : 28-12-2004

Acts Referred:

Citation : 2005 2 CPJ 550

Hon'ble Judges : M.S.Parikh , M.K.Joshi , Leenaben P.Desai J.

Final Decision : Appeals dismissed

Judgement

1. ALL these appeals arise from order dated 31.12.1997 rendered by the learned Consumer Disputes Redressal Forum, Ahmedabad (Rural), dismissing Complaint Nos. 105, 106 and 107 of 1996 observing that the complaints were liable to be dismissed for want of evidence but the complainants might follow appropriate remedy before the Civil Court or under the provisions of Insecticides Act.

2. IT was the complainant's case before the learned Forum that one of the representatives of the 1st opponent manufacturer of insecticides, weedicides and the like informed the complainants in the year 1996 that the weedicide Ronstar-25 E.C. would bring better results than other weedicides with the result that they used such weedicide after purchasing the same in the month of June-July, 1996. However, to their surprise they found more percentage of weeds having grown in the fields after the use of Ronstar-25 E.C. than the weeds grown in the past after the use of weedicide of other companies. According to them, the paddy crop was affected to the extent of 50%. They, therefore, prayed for compensation before the learned Forum. Opponent No. 3 was joined as the dealer of opponent Nos. 1 and 2, Manufacturer of the weedicide. 1st two opponents resisted the complaint inter alia on the ground that theirs was a reputed company in the field of Chemicals used in agriculture. Farmers are making use of weedicides of the 1st opponent company and they did not have any occasion to receive any complaint from any of the farmers. The weedicides manufactured by 1st opponent company came to be tested for its quality by many institutions. The weedicide in question was to be sprayed in proper

proportion as per the instructions set out in the leaflet. Growing of weeds of different kinds would depend on number of causes including level of water, level of land, use of appropriate dose of weedicide and the like. They denied the allegation of fact that someone representing the company had given assurance to the complainants about the quality of the weedicide in question and its use. Opponent No. 3 supporting the cause of the complainant had been in collusion with them and on account of the fact that the third opponent got the payment of the cheques given to the 1st two opponents stopped and on account of default on the part of the third opponent, the first two opponents were required to withdraw the goods worth Rs. 33,000/- from the third opponent. The learned Forum has observed that the very conduct of opponent No. 3 indicated that it inspired the complainants to file complaint against 1st two opponents in absence of evidence adduced by the complainants on all questions of facts namely purchase of weedicide in question, use thereof in accordance with the specification and the ultimate result of growing of weeds. Under such circumstances, the learned Forum had an occasion to call for the sample of weedicide purchased by the complainants for the purpose of the same being tested by Government approved laboratory and appropriate order in that respect was passed for the purpose of ascertaining the efficacy of the product which had been used by farmers who were before the learned Forum. Both the parties did not comply with the order and the product was not sent for testing as required under Section 13(1)(c) of the Consumer Protection Act, 1986. Even then the learned Forum had an occasion to appreciate the evidence which was adduced before it and upon appreciation of the evidence it came to the conclusion that there was no material from which it could be ascertained whether the complainants purchased the alleged weedicide in packed containers and even if such purchase was established, whether the complainant used the same in accordance with the standards and specifications set out by the 1st two opponents. The learned Forum has in terms observed that the complainants' case on facts was not supported by any documentary evidence particularly when it appeared from the evidence that opponent No. 3 was in collusion with the complainants' on account of his dispute with first two opponents in the matter of payment required to be made by the third opponent to first two opponents. The learned Forum, therefore, dismissed the complaint with the aforesaid observations.

Upon hearing the learned Advocates for the original complainants - now appellants before us, nothing further was pointed out except the oral version of the parties before the learned Forum. The complainants were not able to produce the cash memo or bill for the alleged purchase of weedicide in question from the third opponent who at the relevant point of time happened to be dealer of first two opponents. They have also failed to produce any regular Panchnama with regard to more weeds having grown in their respective fields after the use of the weedicide. What they relied upon is certificate from Gram Sevak who was shown a stack of weeds lying nearby the agricultural fields of the complainants. That

would take the matter neither here nor there. No record of rights came to be produced by the complainants before the learned Forum. There is no evidence with regard to what extent of crop of paddy they used to take when they were using other weedicide/s. There is no comparative material with regard to the crop taken on different occasions. Having gone through the material placed on record before the learned Forum and also having gone through the oral evidence, we find justification in the factual finding rendered by the learned Forum.

3. REFERENCE has been made to a decision of the Apex Court in the case of H.N. Shankara Shastry v. The Asst. Director of Agriculture, Karnataka, reported in II (2004) CPJ 37 (SC)=III (2004) SLT 766=2004 (4) Supreme 234. In that case the consumer purchased 10 bags of paddy seeds for the purpose of sowing them/ planting the seedlings to raise paddy in 7 acres of land. When the seeds were sown they did not germinate properly. He made complaint to the other side, who deputed an Agricultural Extension Officer to inspect the land and to submit the report with regard to quality of the seeds supplied to the consumer. The officer inspected the spot and reported that germination was hardly upto 10 to 20%. The opponent Director of Agriculture reported by writing a letter to the Marketing Officer, National Seeds Corporation, Mysore stating that on account of Sub-standard paddy seeds, 7 acres of land was required to be left fallow by the consumer causing great loss to him. The contesting opponent National Seeds Corporation did not depute any technical expert to inspect the spot for assessment. The consumer, therefore, claimed compensation in the sum of Rs. 17,100/- with consequential reliefs. The only defence the opponent raised before the learned Forum was that the paddy seeds were supplied by National Seeds Corporation and that party was directly responsible for making good the loss. The District Forum on admitted facts held that the respondent was a trader in relation to the appellant. The fact that the consumer could not raise harvest of paddy in 7 acres of his field due to improper germination of seeds was not denied by the opponent who pleaded only ignorance in that regard. The District Forum, therefore, directed payment of compensation in the sum of Rs. 17,500/- by way of refunding the price of the paddy seeds and damages caused to the consumer as a result of such transaction. Cost of Rs. 100/- was also awarded. When the matter was taken up before the Karnataka State Commission, the Commission recorded the finding in favour of the consumer about sub-standard quality of the seeds and directed refund of Rs. 1,350/-, the price of the seeds with interest @ 18% p.a. while also awarding compensation in the sum of Rs. 1,000/-. The National Commission summarily dismissed the revision petition of consumer. The Apex Court was required to consider the extent of compensation that should be awarded in favour of the consumer in the aforesaid circumstances. After considering the material placed on record, the Apex Court has observed that granting of relief to the consumer did not depend upon whether he could have made alternative arrangement in respect of loss that he must have sustained. Recording such finding, the Apex Court appears to have restored the order of the learned Forum. On going through the aforesaid decision, it would clearly appear

that factually the case of supply of sub-standard seeds stood established before the learned Forum. In the present case, having regard to the facts with regard to alleged transaction of weedicide being in dispute the complainants have not supported the same with any evidence. In view of what is stated above, the finding recorded by the learned Forum could not be faulted. Having gone through the material placed on record before the learned Forum and having carefully examined the same, we are of the opinion that the order passed by the learned Forum is quite just and proper and in accordance with law.

4. FOLLOWING order is, therefore, passed. ORDER All these appeals are dismissed with no order as to costs. Appeals dismissed.