
(1996) 12 J&K CK 0017
In the Jammu And Kashmir High Court
Case No : CIA No. 87/1995

Nirmal Singh

APPELLANT

Vs

Manager, Central Cooperative Bank, Seer Anantnag

RESPONDENT

Date of Decision : 26-12-1996

Acts Referred:

Jammu and Kashmir Consumer Protection Act, 1987 — Section 17

Citation : (1997) KashLJ 210 : (1997) SriLJ 90

Hon'ble Judges : A.Q.Parray, J

Bench : Single Bench

Judgement

This is appeal has been filed against the order dated 26/12/1995 purported to have been passed by the State Commission in the proceedings moved

by the present appellant against the Manager, Central Cooperative Bank, Seer Anantnag. Under the impugned order evidence of the

complainant/present appellant has been closed without affording him further opportunity to adduce evidence in support of the complaint.

Mr. Tantrya appearing for the appearing for the appellant submitted that the appeal is maintainable. While developing his arguments further, Mr.

Tantrya has taken me through Section 17 of the Consumer's Protection Act 1987 (herein after to be referred to as the Act), which reads:

17. Appeals: Any person aggrieved by any order by the state commission in exercise of clause (a) of Section 15 may prefer an appeal against such

order to the High Court within a period of thirty days from the date of the order in such form and manner as may be prescribed;

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause

for not filing it within that period.

Thus Id. counsel for the appellant has laid emphasis that he has a statutory right under the provisions of the Act to file the appeal against any order.

By any order, he means even an interlocutory order or final orders, and submits that the order though passed in the proceedings on 2661995,

whereunder his evidence was closed, is also falling within the definition of an / order and , as such, he has preferred the appeal.

The contention raised by Mr. Tantray is not well founded . It may be noted that Consumers Protection Act is a Special Act and has been passed

by the Legislature only to provide better protect of the interests of the consumer and for that purpose, provisions for establishment of Consumer's

Council and other Agencies for the settlement of such consumer disputed and all such matters connected therewith have been provided under the

Jammu and Kashmir Consumer's Protection Act. Not only in the state but through out the country, there is consumer movement where in interests

of the consumers are protected.

The Forums which have been created and authourised under the provisions of the Act are Divisional Forum and the State Commission. Divisional

Forum has the jurisdiction provided under Section 15 of the said Act and the procedure to be adopted by such Forums is governed under the

Rules which been framed under the Act. So in order to overcome the difficulties which were being faced by the consumers on behalf of

unscrupulous traders by deficiency of service in any manner has been made cognizable and falls within the compass of the Consumer's Protection

Act even court fee, stamp duties and other procedural wrangles have been dispensed with in order to have speedy redressed of the grievances of

the consumer which are being preferred before the Divisional or the State Commission. Keeping under consideration this very purpose the

legislature has enacted the Act; where there is only one appeal provided by the Divisional Forum, appeal shall lye to the State Commission under

the provisions of Section 13 of the Act and that appeal is also to be filed within thirty days. Similarly in case a person is aggrieved of the order

passed by the State Commission, appeal has been provided under the above referred provisions of Section 17 of the Act to the State High Court,

but are all /orders appellable as has been projected?

So the short point which is to be considered and projected by the appellant is

that as because the words in Section 17 of the Act do envisage that any person aggrieved by any order passed by the State Commission, meaning thereby that it is any order whether passed as an interlocutory or the final order which is to be agitated in the appellate Forum? The contention of learned counsel for the appellant is not well founded for obvious reasons because the legislature has furthermore enacted that every order of Divisional Forum or the State Commission shall, if no appeal has been preferred against such order under the provisions of this Act be final and to circumvent as to what is the order which will be deemed as a final order, Section 19 reads and provides:

19. Enforcement of order by the Forum or the State Commission: Every order made by the Divisional Forum, or the State Commission may be enforced by the Divisional Forum, or the State Commission as the case may be in the same manner as if it were a decree or order made by a court in the suit pending there in and it shall be lawful for the Division! Forum, or the State Commission to send in the event of its inability to execute it, such order to the court within the local limits of whose jurisdiction.

(a) In the case of an order against a company, the registered office of the company is situated, or

(b) In the case of an order against any other person, the place where the person concerned voluntarily resides or carries on business or personally

works for gain, is situated, and there upon the court to which the order is so sent, shall execute the orders as if it were a decree or order sent for it for execution .

So the order which is to be deemed as final and which is appellable must be an order as if it were a decree or order made by a court in a suit pending there in.

Furthermore it has been provided that it shall be lawful for the Divisional Forum or the State Commission to send in the event of its inability to execute it., such order to the court within the local limits of whose jurisdiction for execution and the executive court to which order is so send shall

execute the order as if it were a decree or order send to it for execution. This shows the intention of the legislature that it is only final order passed

by the Divisional Forum or the State Commission which is to be agitated in appeal as the case may be either before the State Commission or

before the High Court. So it is not all the orders which are to be deemed as decree as has been clearly circumvented and defined in Section 19 of

the Act. Thus it will be an anomaly in case courts give loose interpretation to the word 'any order' passed by the State Commission or the

Divisional Forum to take it as an appellable. That is neither the intent nor the purpose of the legislature and even not of the Act.

In case courts would give such a loose interpretation to the word 'any order' meaning thereby that all interlocutory orders passed by the Divisional

Forum or the State Commission are appellable, then that will be shattering the whole fibre of the statute as well as the intent and purpose for which

this special legislation has been enacted.

So the order which is appellable is only the order which is executable as a decree passed by a civil court of competent jurisdiction . The result is

that this appeal being misconceived is accordingly dismissed. Inform the Commission accordingly. File be consigned to records.