(2003) 02 NCDRC CK 0117

In the National Consumer Disputes Redressal Commission

RADHEY SHYAM VERMA APPELLANT

Vs

U.P. Financial Corporation RESPONDENT

Date of Decision : 14-02-2003

Acts Referred:

Citation : 2003 2 CPJ 49

Hon'ble Judges : D.P.Wadhwa , J.K.Mehra , Rajyalakshmi Rao , B.K.Taimni , K.S.Gupta J.

Final Decision : Complaint dismissed

Judgement

1. COMPLAINANT, an ex-Managing Director of Mandakini Steel Rolling Mills Pvt. Ltd. (for short the ''Mills'') filed this complaint, inter alia, alleging that the construction of the mills was started in June, 1986 and completed in March, 1989. Mills was provided electric load of 503 KVA in March, 1989. Working capital was released by State of Bank of India, Kurebhar O.P. No. 4. The Mills started production but because of short supply of electricity, it suffered loss of about Rs. 8,000/- to 10,000/- per day. It is further alleged that O.P. Nos. 2 and 3 issued notice to the complainant under Section 29(B) on 8.3.1990 and a copy thereof was also forwarded to O.P. No. 5. By reason of issue of this notice, the Mills was closed. Total loss of Mills reached Rs. 27,06,776.28 upto 31.3.1990. It is further alleged that Industrial Re-rollers, Kanpur by the letter dated 27.9.1990 gave offer for purchase of the Mills to the Regional Office of O.P. No. 2 at Faizabad. In this connection, Industrial Re-rollers lastly wrote to O.P. No. 2 on 20.4.1991. It is also alleged that General Manager, Headquarters of O.P. No. 3 sent letters dated 24.7.1991, 26.7.1991, 15.1.1991, 2.12.1991 and 11.12.1991 to O.P. No. 2 to take possession of the Mills and arrange for security guards therefor. It was only on 24.1.1992, that possession of Mills was taken by O.P. No. 2, and arrangement of security guards made. COMPLAINANT had to spend huge amount in providing security to the Mills uptil 24.1.1992 when possession of Mills was taken over by O.P. No. 2. The Mills was sold for an amount of Rs. 6,73,240.19 and complainant had to suffer heavy losses due to deficiency in service on the part of O.Ps. As per accounts maintained by O.P. Nos. 2 and 3, amounts of Rs. 39,69,159.81 towards

principal, Rs. 3,57,085,423.25 towards interest, and Rs. 2,98,000,986.93 towards expenditure on security gurards were due as on 27.11.1991. It is stated that complainant invested share capital of Rs. 39,86,000/-. He also collected from relatives/friends etc. amount of Rs. 5,59,500/- and invested in the Mills. It was prayed that O.Ps. be directed to pay said amounts of Rs. 39,86,000/-, Rs. 5,59,500/-, loss incurred by the Mills including amount of Rs. 1,82,000.00 towards mental agony caused to the complainant. It was also prayed that complainants be absolved of the liability to pay the amount due to the Bank, i.e. O.P. No. 4.

2. HAVING heard the complainant and also having considered the averments, extracted above, made in the complaint, we are of the view that cause of action, if any, had accrued to complainant when the Mills was closed on 8.3.1990 and possession thereof taken by O.Ps. 2 and 3 on 24.1.1992. Present complaint filed much beyond the period of 2 years of the accrual of cause of action on 30.1.2003, is hopelessly barred by time and, thus, deserves to be dismissed on that sole ground. Complaint is, therefore, dismissed being barred by limitation. In case the complainant chooses to file suit for the reliefs claimed in complaint, he can claim benefit of Section 14 of the Limitation Act, 1963 to exclude the period spent in prosecuting this complaint while computing the period of limitation prescribed for such a suit in view of the decision in Laxmi Engineering Works v. P.S.G. Industrial Institute, II (1995) CPJ 1 (SC). Complaint dismissed.