
(2000) 09 NCDRC CK 0051

In the National Consumer Disputes Redressal Commission

RAJ HIRE PURCHASE PRIVATE LIMITED

APPELLANT

Vs

DEEP NARAIN JAISWAL

RESPONDENT

Date of Decision : 18-09-2000

Acts Referred:

Citation : 2001 1 CPC 642 : 2001 1 CPJ 538

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna J.

Final Decision : R.P. dismissed

Judgement

1. THIS is a revision against the order dated 15.5.2000 passed by District Consumer Forum, Kushinagar in Complaint Case No. 824/1999.

2. THE facts of the case stated in brief are that the complainant instituted a complaint against the revisionist and others alleging that he sought financial assistance for purchase of a Mahindra jeep by entering into Hire Purchase Agreement with revisionist and alleged that no dues certificate has not been given by the revisionist in respect of the vehicle in question. THE claim was lodged by the complainant for awarding Rs. 45,000/- alongwith interest. THE revisionist filed his written version on 28.4.2000 and the matter was adjourned for 15.5.2000 for further orders. On 15.5.2000 the learned District Forum passed an order for placing Statement of Account by the opposite parties, whereas on that date evidence of the complainant was required to be taken in response to the written statement the revisionist has filed on 28.4.2000. Prior to that date no orders for filing Statement of Accounts were passed on 13.4.2000 which was the date fixed. As the revisionist had appeared for the first time before the learned District Forum on 28.4.2000, he had filed his written statement. THE revisionist has also stated that under Sections 12 and 13 of the Consumer Protection Act pleadings and evidence were to be completed and there was no occasion for passing the said order which is illegal. THE date 15.5.2000 was not fixed for arguments and since written statement was filed on 28.4.2000 the complainant ought to have filed affidavit evidence and thereafter the stage of filing affidavit evidence on behalf of the opposite party would have come. THEREfore, the order

dated 15.5.2000 is in violation of the procedure laid down under Sections 12 and 13 of the Consumer Protection Act. In the order dated 15.5.2000 the learned District Forum. Iso passed an order that in case the Statement of Accounts is not filed, action will be taken as per provisions of Section 27 of Consumer Protection Act. The revisionist has prayed that the order referred to above should be set aside.

We have heard the arguments of the learned Counsel for both the parties. Mr. Rajesh Chadha, learned Counsel for the revisionist has argued that written statement was filed by the opposite party, the revisionist, on 28.4.2000 and there was no question of filing any other document at that stage. The next stage automatically would have been evidence to be produced by the complainant in reply to the written statement and further evidence should have been taken under Section 13 of the Consumer Protection Act. On the other hand, learned Counsel for the complainant has argued that the complaint case involved financial transactions and debit and credit entries were required by the Forum concerned and submission of statement of debit and credit entries was necessary before the learned Forum. Therefore, the Forum was perfectly right in asking for the Statement of Account from the opposite party.

3. WE have gone through the orders passed by the District Forum on various dates. On 2.3.2000 replication was given by the complainant and it was ordered that evidence be produced. In reply to replication on 18.3.2000 case was adjourned to 28.3.2000. On 28.3.2000 an affidavit was filed on behalf of the opposite party. The case was then adjourned to 13.4.2000. On 13.4.2000 the learned Forum passed an order which reads as follows : "Heard. Let Statement of Accounts be filed by the respondent Nos. 1 and 2 by 28.4.2000." On 28.4.2000 the orders passed on the order- sheet were that "Statement of Accounts was not submitted by the opposite parties". Then on 15.5.2000 a detailed order was passed by the Forum indicating that as per version of the complainant he was not given due certificate and excess payment was taken from him. No proper reply to this fact was given by the opposite parties, whereas a Statement of Accounts was filed on 13.4.2000. The complainant has produced receipts of payments which fact was not contested by the opposite parties. Therefore, the opposite party was ordered to file Statement of Accounts by 28.4.2000 failing which action under Section 27 of the Consumer Protection Act will be initiated. Now coming to the plea of the revisionist that the learned District Forum should not have asked for the Statement of Accounts on 15.5.2000 as the written statement was filed on 28.4.2000 and even the evidence of the complainant in response to the written statement had not been produced by then and the Forum's action for asking the Statement of Accounts was not a wrong one.

4. IN our opinion the Forum was within its right to ask for the Statement of Accounts without waiting for the reply to the written statement. A perusal of Section 13 of the Act will go to show that under Section 13 of the Act, the copy of the complaint, is to be given to the opposite party for giving its version of the

case and the opposite party denied all the allegations contained in the application. The District Forum is required to proceed to settle the dispute on the basis of evidence brought to its notice by the parties. IN this particular case the opposite party has filed the written statement on 28.4.2000. The District Forum was perfectly right within its jurisdiction to have asked for the Statement of Accounts to be filed. IN the case of CI (1993) CPJ 35 (Guj. SC), it I was observed that "We may also observe at this stage that so far the matters under the Consumer Protection Act are concerned, the technicality and legality or procedures should not come in the way of consumers in getting their right. If the District Forum held that the presence of Mr. Hiren was necessary, it should have suo moto issued a notice to him though to our opinion it was not necessary". We agree that the proceedings under the Consumer Protection Act are summary in nature and, therefore, if the Forum did not wait for the reply of the written statement, then it does not mean that it was barred from asking the Statement of Accounts. Under the circumstances, the revision petition for setting aside the orders passed by the Forum on 28.4.2000 and 15.5.200Q are not in violation of the provisions of Section 13 of the Consumer Protection Act. It will be open for the complainant to file reply to the written statement by the opposite party and it continues to be open for the District Forum to ask for Statement of Accounts from any parties involved in the case, if necessary. In the circumstances the revision objection has no force and is liable to be dismissed. ORDER The revision petition is dismissed. However, it is provided that in case the complainant wants to file reply to the written statement, he could do so before the Forum and the Forum will provide equal opportunity to both the parties to put up their versions in equitable manner. Let a copy of this order be sent to the District Forum concerned for disposal of the complaint under the provisions of the Consumer Protection Act. Parties shall appear before the District Forum on 16.10.2000. Let copy as per rules be issued to the parties. R.P. dismissed.