

(2012) 05 NCDRC CK 0047

In the National Consumer Disputes Redressal Commission

RAKESH KUMAR AGARWAL

APPELLANT

Vs

Ramnaresh Yadav

RESPONDENT

Date of Decision : 11-05-2012

Acts Referred:

Citation : 2012 0 NCDRC 794 : 2012 2 CPJ 588

Hon'ble Judges : J.M.MALIK , SURESH CHANDRA J.

Final Decision : Appeal dismissed

Judgement

1. THE concurrent findings of both the Courts below is that animal feeds sold by Rakesh Kumar Agarwal, revisionist, was unfit for livestock consumption and the animals died because of consumption of such foods. Both the Courts also held that respondent Shri Ramnaresh Yadav is entitled to compensation of Rs. 1,20,000. Aggrieved by that order, the present petition has been filed.

2. NOTICE was sent to the respondent but he did not appear despite service. We have heard the learned Counsel for the petitioner.

3. LEARNED Counsel for the petitioner vehemently argued that no sample of cattle feed was obtained from petitioner 's stock. There is no evidence that the fodder consumed by the animals was supplied by the petitioner. The complainant did not claim anywhere that he used to purchase the cattle feed only from the petitioner.

4. ALL these arguments are bereft of merit. In the affidavit, Ramnaresh Yadav stated on oath that he had purchased the cow feed along with Rameshwar Yadav from the revisionist on 8.8.2004. He also stated that cows of Rameshwar Yadav and Zulfikar Ali @ Bhutto of Gumadera, P.S. Bepahar, also died by consuming such poisonous feed of the revisionist. The evidence further reveals that Veterinary Assistant Surgeon conducted post-mortem over the dead animals. He opined that death of animals might be due to liver failure. He sent sample of the cattle feed to the Analytical Laboratory, Bhubaneswar for analysis. The analysis report depicts that sample of feed was not fit for livestock consumption.

5. IN the affidavit dated 5th February at pages 15 to 17 of the revision petition, the petitioner admitted that the complainant had business relations with him but only upto June-July, 2004, when such relation came to unfortunate end owing to dispute/quarrel between both, arising out of credit dues. Therefore, it stands admitted that there were relations between the parties till June-July 2004: Learned Counsel for the petitioner admitted that the petitioner did not issue the receipt for purchase of cattle feed. He further explained that, as a matter of fact, customers buy the cattle feed on credit which is some time paid and some time it remains unpaid.

6. LEARNED District Forum in its order has observed as under: "3..... During the course of hearing of this case, Ext. 1 was manhandled by some body. The page containing the entry dated 8.8.2004 found in Ext. 1, relating to payment of the feeds was missing from the record. However, Xerox copy of the said missing page was filed by the OP 's Counsel later on. Annexure-C is the copy of the missing page of Ext. 1. In absence of the original page, the said Annexure-C would be taken as original wherein entry dated 8.8.2004 is present. "

Again, affidavits in support of the case of the complainant were filed by Shri Rameshwar Yadav, Zulfikar Ali @ Bhutto, Dr. Lochan Jena. V.A.S. Brajrajnagar and Prafulla Kumar Nayak (V.A.S. Belpahar). Shri Ramnaresh Yadav complainant was cross-examined but nothing of importance cropped up during his cross examination. It is true that interrogatories of some of witnesses were filed. The complainant could not file the replies to the interrogatories meant for rest of his witnesses and the District Forum correctly held that non-submission of reply of experts does not matter much.

7. IT must be borne in mind that the revisionist has admitted that he had got business relations with the complainant till June-July, 2004, therefore, it is for him to carry the ball in proving that their relations became strained. The story created by him that due to non-payment of price of cattle feed, their relations became hostile is made out of whole cloth. Its particulars, like, how much price was due and for which period, did not see the light of the day. Such like stories can be created at any time. There is no evidence that the complainant was having bad blood with revisionist and for that he would name him unnecessarily. No effort was made to name the shop-keeper from whom he purchased the cattle feed. In a small village, it is not difficult to know about all these facts.

8. THE Revision is meritless and the same is dismissed. Revision dismissed.