

(2017) 08 NCDRC CK 0024

In the National Consumer Disputes Redressal Commission

Case No : 1306 of 2017

S. V. SREENIVASEN

APPELLANT

Vs

CHIEF EXECUTIVE OFFICER, SAHARA PRIME CITY LTD, &
ANR.

RESPONDENT

Date of Decision : 17-08-2017

Acts Referred:

Citation : (2017) 08 NCDRC CK 0024

Hon'ble Judges : Ajit Bharihoke, Anup K Thakur

Advocate : Lavanya Shankar

Final Decision : Appeal Allowed

Judgement

1. The instant appeal has been preferred by the appellant complainant against the order of the State Commission dated 06.03.2017 in CC No. 83 of 2013, whereby the State Commission dismissed the consumer complaint preferred by the appellant in default. The impugned order is reproduced as under:

"No representation for complaint. From 21.09.2015 to till date, for various hearings there was no representation for the complainant. Though for previous three, four hearings, the case was posted for appearance of the complainant or for disposal, complainant remained absent. Today also, there is no representation for the complainant. Complainant is also absent, thereby showing that the complainant is not interested in prosecuting the case. The case was filed during the year 2013. Now almost three years completed. But the complainant had not taken any efforts to conduct the case. Therefore, no useful purpose will be served in keeping the complaint on file. Hence the complaint is dismissed for default."

2. On reading of the above, it is clear that on hearing dated 06.03.2017, there was no representation on behalf of the respondent opposite party. Therefore, we dispense with the need for issuing of notice to the respondent.

3. Counsel for the appellant has contended that absence of the appellant on the

relevant date of hearing before the State Commission was unintentional as he was not even aware of the date of hearing. It is further submitted that if the impugned order is not set aside, it will result in grave prejudice to the appellant.

4. In support of the contention, counsel for the appellant has drawn our attention to the proceedings drawn by the State Commission prior to dismissal of the complaint.

5. On perusal of the proceedings, we find that on 28.01.2016, 22.03.2016, 20.06.2016, 12.09.2016 and 07.12.2016, there were no sittings of the State Commission and suddenly after one year, the matter came up for hearing before the State Commission on 06.03.2017 and the State Commission ignoring the fact that no effective proceedings were drawn during the last one year, instead of issuing notice to the appellant proceeded to dismiss the complaint for non prosecution. It is pertinent to note that matter at the relevant time was ripe for arguments and appellant's written statement were already on record. If the State Commission was in such a hurry to dispose of the matter, right course would have been to peruse the record as well as the written statement and decide the complaint. State Commission, however, opted to take short cut, which in our view resulted in grave prejudice to the appellant.

6. In view of the discussion above, impugned order cannot be sustained. Appeal is accordingly allowed and order of the State Commission is set aside. Matter is remanded back to the State Commission to decide the appeal on merits. Appellant is directed to appear before the State Commission on 19.09.2017.