
(1992) 12 NCDRC CK 0079

In the National Consumer Disputes Redressal Commission

SAJAWANT FURNITURE HOUSE

APPELLANT

Vs

JAGDISH CHAWLA

RESPONDENT

Date of Decision : 07-12-1992

Acts Referred:

Citation : 1992 3 CPJ 536 : 1993 2 CPR 322

Hon'ble Judges : S.S.Sandhawalia , Basanti Devi , S.Kulwant Singh J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal is directed against the order of the District Forum, Rohtak whereby the marginal relief of a part refund of Rs. 425/- and costs of Rs. 100/- have been accorded to be paid to the respondent.

2. THE complainant-respondent Jagdish Chawla had alleged in his complaint that on the 2nd of November, 1991 he had first purchased a table for Rs. 925/- only from the appellants and later on the 4th of November, 1991, he has purchased one sofa set for Rs. 6,500/- from the appellants concern. After merely 1 1/2 month and more the said Sofa set broke down and the mattress thereof also wore out. THE respondent persistently complained to the appellant, who after considerable reluctance came to his house in the first week of January, 1992 and took the Sofa set away. However, when he later approached the appellants for the refund of the price, he was only given Rs. 6,075/- . Consequently, he claimed the balance amount of Rs. 425/- with compensation to the tune of Rs. 100/- only. On notice being issued, the appellants took up the somewhat specious plea of the total denial of any transaction. It was alleged that in fact no sale whatsoever had taken place either on the 2nd of November, 1991 or on the 4th of November, 1991. The focus of the reply was that the complainant had failed to produce any bill or cash memo for the transaction and consequently, the allegations in the complaint were not only unsubstantiated but false and concocted. A counter plea was taken that the father of the complainant Shri Charanjit Chawla had sought some advertisement for his weekly newspaper from the appellants and on their refusal to comply therewith, the present complaint

was mischievously lodged against them.

In support of his case, the respondent Shri Jagdish Chawla stepped into the witness-box as PW-1 and forth-rightly supported his version. His cross-examination failed to make any dent in his case. He was further supported by the testimony of PW-2 Raj Kumar. In rebuttal Ashok Kumar, Proprietor of the appellant concern stepped into the witness-box as RW-1 and persisted in his plea of total denial of the whole transaction. The District Forum on a very close and exhaustive appraisal of the materials before it, accepted the sole testimony of PW-1 Jagdish Chawla and PW-2 Raj Kumar. It rejected the plea of the appellants that intact they were not manufacturing any furniture or selling the same and the whole case was concocted one. It was observed that merely because the complainant had failed to produce the cash memo or a bill, this by itself was not sufficient to throw away the whole case. Consequently, the relief in terms noticed at the very outset was granted.

3. MR. Naresh Katyal, the learned Counsel for the appellants has again primarily harped on fee point that no cash memo or bill had been produced by the respondent and, therefore, their case must necessarily fail on that score. We are unable to find any *modi-cum* of merit in the bald submission. It was not the case of the complainant that he had secured a bill or a cash memo for the purchase of the furniture. Therefore its non-production cannot in any way be held as a deliberate withholding of any existing document. The District Forum adverted to this aspect of the matter and arrived at a finding with which, we are wholly inclined to agree. In a judgment of affirmance, it is unnecessary to traverse the same grounds all over again.

4. THE significant thing herein is the somewhat blatant denial of the whole transaction on behalf of the appellants. As the very name of the appellants would show, they are a business house primarily dealing in furniture at Rohtak In this context, denial by the appellants and in particular by Ashok Kumar, RW-1 that they were not manufacturing or selling Sofa set seems on the face of it untenable. THE District Forum rightly observed that the appellants had led no evidence to remotely establish their wholly frivolous stand that they were not in the furniture business at all. To suggest that the complainant would level an allegation of this kind against the appellants, when they were not at all dealers in such materials would on the face of it look somewhat farcical. It was then contended by Mr. Katyal that the registered notice given to the appellants was on the pad and envelop of "RAJ BHARAT (HINDI) SAPTAHIKI WEEKLY". There from, it was sought to be inferred that the counter-version set up by the appellants should have been straight way accepted. We are unable to agree. The complainant Jagdish Chawla in his testimony had very fairly stated that it was in the letter head pad of his father Charanjit Chawla that he has sent registered notice Ex.P-1 to the appellants. This would thus appear to be a wholly neutral factor. Merely because the said communication had been written on the stationery of his father, cannot lead to the long winded inference that the latter

had made any extortionate demand of advertisement and that the same has been refused and consequently, a wholly imaginary complaint seeking a somewhat paltry amount of Rs. 425/- would be launched against the appellants by way of vendetta.

5. LASTLY, the somewhat curious submission raised by Mr. Katyal was that the respondent had used the Sofa set for about 1 month and consequently the appellants would be entitled to keep back an amount of Rs. 425/- or more.

6. THE submission aforesaid virtually lets the cat out of the bag and give the lie direct to the basic plea of the appellants that in fact there had been no transaction of sale or purchase and the complaint was a mere figment of the respondent's imagination. As not even a remote suggestion of this kind has been made during the trial and in the record, the somewhat belated after thought that such a deduction was justifiable has, therefore, to be only noticed and rejected. For the foregoing reasons, this appeal must fail and is hereby dismissed. However, we would not wish to burden the appellants with any costs because no appearance has been put in on behalf of the respondent. Appeal dismissed.