

(1999) 04 SC CK 0117

In the Supreme Court Of India

Case No : Civil Appeal No. 2233 of 1999 (Arising out of SLP (C) No. 913 of 1999)

Sat Pal Mohindra

APPELLANT

Vs

Surindra Timber Stores

RESPONDENT

Date of Decision : 12-04-1999

Acts Referred:

Citation : (2000) 1 ALT 2 : (1999) 3 CALLT 74 : (1999) 9 JT 79 : (1999) 5 SCC 696

Hon'ble Judges : A. S. Anand, C.J;N. Santosh Hedge, J;M. Jagannadha Rao, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

1. Leave granted.

2. The appellant filed a complaint on 21-05-1994 before the District 'Consumer Disputes Redressal Forum, Ambala alleging deficiency of service by use of sub-standard material by the respondent, with whom an order had been placed by him for fabricating of three doors and six window doors etc. The appellant sought suitable compensation from the respondent. The respondent filed a written statement on 2-8-1994 denying the allegations and resisting the complaint. After evidence was led by the parties, the District Consumer Forum dismissed the complaint on 16-11-1995. The appellant thereupon took the matter in appeal to the State Consumer Disputes Redressal Commission. The learned Commission did not go into the merits of the appeal but non-suited the appellant and dismissed his appeal with the following observations on 14-10-1996.

As the matter is now subjudice before the civil court and the appellant will have an opportunity to file a counter-claim with regard to the inferior quality of the material, we do not find it necessary to go into the merits of the appeal. As the parties will get full opportunity before the civil court and the matter will be decided on merits there, there is no scope for any further action in the consumer jurisdiction. The appeal is dismissed.

3. The appellant thereupon approached the National Consumer Disputes Redressal Commission through a revision petition. The National Consumer Disputes Redressal Commission noticed the observation of the State Commission to the effect that a civil suit had been filed by the respondent which was pending in a civil court and dismissed the revision on 21-7-1998 observing that he could raise all the points before the civil court in the pending suit. Aggrieved, the appellant is before us by special leave.

4. The respondent though served has chosen to remain absent.

5. After perusing the record, we find that whereas the appellant had filed the complaint on 21-5-1994 seeking damages, the suit was filed by the respondent much later in the civil court claiming the price of the material supplied by it. Under these circumstances, the State Forum was not justified in dismissing the appeal filed by the appellant without recording any finding on the merits of the appeal because the filing of the suit by the respondent during the pendency of the proceedings before the Consumer Forum for a different type of relief could not oust the jurisdiction of the Consumer Forum. The order of the State Forum dated 14-10-1996 is completely erroneous. It cannot be sustained. We, accordingly accept this appeal and set aside the order of the State Forum dated 14-10-1996 as well as that of the National Forum dated 21-7-1998. We remand the appeal to the State Forum for its disposal on merits in accordance with law. The State Forum shall dispose of the appeal expeditiously. No costs.