

**(2013) 09 NCDRC CK 0103**

**In the National Consumer Disputes Redressal Commission**

SHAMSHER SINGH

APPELLANT

Vs

Bagri Beej Bhandar , M/S Severn Seas Hybrid Seeds Pvt. Ltd.

RESPONDENT

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**Date of Decision :** 11-09-2013

**Acts Referred:**

**Citation :** 2013 0 NCDRC 628 : 2013 4 CPJ 186 : 2013 4 CPR 219

**Hon'ble Judges :** K.S.CHAUDHARI , B.C.Gupta J.

**Advocate :** Madhu Ranjan

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**Judgement**

1. THIS revision petition has been filed under section 21(b) of the Consumer Protection Act, 1986 against the impugned order dated 23.02.2012 passed by the Haryana State Consumer Disputes Redressal Commission (for short "the State Commission ") in FA No. 1318/2009, "M/s. Bagri Beej Bhandar & Anr. versus Shamsher Singh & Anr. ", vide which, while allowing the appeal, order dated 16.07.2009 passed by the District Consumer Disputes Redressal Forum, Jind in complaint no. 180/2008 was set aside and the said complaint was ordered to be dismissed.

2. BRIEF facts of the case are that complainant Shamsher Singh is an agriculturist/labourer by profession, but he was not owner in possession of agricultural land situated anywhere. According to him, he used to take agricultural land on contract basis for a period of one year and earn his livelihood from cultivation on the said land. The complainant has stated that he had taken 9 acres of agricultural land on contract from Munshi Ram 's family. He purchased three packs of certified paddy seeds of "Pepsi Seven Seas " variety and two packs of "P-1121 Diamond Variety " on 22.05.2007 for a sum of Rs.2,300/- from OP No. 1, M/s. Bagri Beej Bhandar, who is authorised sales agent of the producer, OP No. 2. The said seed was sown in the land taken on contract after following the practices as mentioned in the brochure and pamphlets. Pepsi Seven Seas variety of paddy was planted in 3 acres of land, whereas P-1121 Diamond Variety was planted in 5 acres 18 marlas of land. He spent huge amounts on cultivating the land and use of fertilizers, pesticides, irrigation, labour etc.

However, the growth in paddy crop was not satisfactory. The complainant reported the matter to OP No. 1, but he allegedly did not pay any heed in the matter. A written complaint was, therefore, made to the Agricultural Officer at Jind on 08.10.2007. The Agriculture Department conducted spot survey and inspection of the standing crop on 16.10.2007 and found that there was mixture of other poor quality seeds in the packing of seeds purchased by the complainant from OP No.1. An inspection report stated that 25%-30% of substandard varieties in Pepsi Seven Seas and about 60% of poor quality seeds was mixed in P-1121 Diamond variety of seeds. The complainant alleged a loss of Rs.3,10,000/- to him and he approached OP No.1 to compensate him for the loss, but despite sending a registered legal notice, OP No. 1 did not take any action. A consumer complaint was then filed before the District Forum, claiming payment of Rs.3,10,000/- as compensation and Rs.1 lakh as damages on account of mental pain and agony plus Rs.10,000/- as cost of litigation. The District Forum vide their order dated 16.07.2009 allowed a sum of Rs.5,000/- per acre as compensation to the complainant and directed the OPs to pay a sum of Rs.45,000/- to the complainant jointly and severally. However, the appeal filed against this order was accepted, the order of the District Forum was set aside and the complaint was ordered to be dismissed. It is against this order that the present petition has been made. At the time of hearing before us, learned counsel for the petitioner was asked to file copies of the necessary documents filed before the Fora below to prove that the complainant had taken the said 9 acres of land on contract. The petitioner filed I.A. No. 5292 of 2013, enclosing therewith a copy of "thekinama " saying that 22 acres of their land was taken by Shamsheer Singh complainant on contract. A copy of the Jamabandi for the year 2003-2004 and the inspection report of the Agricultural Department was also filed with the I.A. However, at the time of admission hearing, the learned counsel for the petitioner admitted that copy of the contract or "thekinama " had not been filed by them before the District Forum or the State Commission. Learned counsel also could not give any satisfactory explanation when asked to explain about the proof of cultivation including entries in the cultivation column of Jamabandi. Learned counsel relied upon the report made by the Agricultural Department only.

3. A perusal of the order passed by the State Commission reveals that the State Commission observed in their order that the complainant had not got the seeds, in question, tested from a Laboratory as required under section 13(1)(c) of the Consumer Protection Act, 1986. He also never moved an application before the concerned authority for getting the seeds tested from some laboratory. The report of the Dy. Director (Agriculture) revealed that there was mixture of other poor quality of paddy plants, but the same was not substantiated by report of any laboratory.

4. THE State Commission has also observed that as per the report by the Haryana State Seed Certification Agency, the said seeds had been certified to be of prescribed standard. The State Commission has also given reference to some

Government Instructions, in which it has been laid down that when there is a complaint by farmers regarding quality of seeds, an inspection committee has to be constituted, comprising two officials of Agricultural Department, one representative of concerned seed agency and scientists of Krishi Vigyan Kendra. The said instructions had not been followed by the Agricultural Department while giving their report. The facts narrated above lead to the conclusion that the factum of the complainant having suffered a loss due to the poor quality seeds has not been established by any scientific or other evidence. Based on the report of one officer of the Agricultural Department, it cannot be stated that the version of the complainant is true.

5. BASED on the above discussion, we do not find any illegality, irregularity or jurisdictional error in the impugned order passed by the State Commission which may require interference at the revisional stage. The revision petition is, therefore, ordered to be dismissed and order passed by the State Commission is upheld with no order as to costs.