

(1999) 07 NCDRC CK 0056

In the National Consumer Disputes Redressal Commission

SHRIRAM REFRIGERATION INDUSTRIES LIMITED

APPELLANT

Vs

Ratnakar Bank Limited

RESPONDENT

Date of Decision : 14-07-1999

Acts Referred:

Citation : 1999 2 CPC 396 : 1999 2 CPJ 644 : 1999 2 CPR 540

Hon'ble Judges : A.A.Halbe , G.R.Bedge J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal is directed against the order of District Forum, Sangli in C-193/96 directing the appellant, Shriram Refrigeration Industries Limited to refund Rs. 3,62,456/- with interest thereon from 13.10.1993 i.e. the date on which the Air Conditioners were installed. The main contention raised on behalf of the appellant is that the claim is barred by limitation and the complainant has miserably failed to prove inherent defect in the manufacturing of the A/Cs supplied to the . complainant. The complainant, on the other hand has to pay around Rs. 1,20,000/- towards the price of the A/C and it only with a view to deny this payment that the false complaint was filed.

2. THE District Forum felt that the A/Cs never worked satisfactorily right from the date of installation and that repairs were carried out on several subsequent dates and that the order of refund of the price paid up to 80% of the total price of the complainant should be proper. THE appellant installed 8 Air Conditioners and had quoted the price of Rs. 4,53,070/-. THE Air Conditioners were installed at the end of December, 1993 and some in the beginning of January, 1994. THE complainant Bank paid Rs. 3,60,456/- and there was balance of Rs. 90,614/-due to appellant. THE complainant contended that the defects were detected and that the mechanic of the appellant Company visited but failed to repair the A/Cs. We find that the visits have been shown on several dates. THEy can be tabulated as 13.6.1994, 19.7.1994, 20.7.1994, 3.8.1994, 3.10.1994, 2.1.1995, 26.1.1995, 28.1.1995. THERE is also another dated on 21.3.1995. It seems that legal notices have been exchanged between the parties and the complainant has constantly

made grievance that the system is not working to the satisfaction of the complainant. In the letter of the appellant/ Company dated 24.8.1995, it is stated that the use of the A /Cs by the staff of the Bank has not been proper and that there was negligence in maintenance and the appellant is not responsible.

We have also find the correspondence dated 4.6.1994,7.7.1994,27.5.1994 and 26.8.1994. The notices by the Bank is dated 1.12.1995.

3. WITH these correspondence, we are of the view that the Air Conditioners required frequent repairs. The repairs were carried out by the staff of the appellant Company or its agent but that has been with temporary solution and the permanent deficiency in the functioning of the Air Conditioners persisted. It has been urged on behalf of the appellant that there is no certificate of any proper Authority to show there was defect in the manufacturing of the Air Conditioners. We find that in the repeated complaints, the complainants have been able to establish the Air Conditioner system was not all functioning properly. It is in correct to say that the Bank did not want to make the payment of balance. The complainant like a Bank would not fault to make payment regarding the balance of Rs. 90,000/- and around but if the system has not performed well and if there is huge investment for the installation, the complainant is justified in asking back the price paid. The appellant has not able to show that strict instructions were issued to the complainant in maintenance of the Air Conditioners and the District Forum rightly observed that there is no evidence on that count adduced on behalf of the appellant Company. On the other hand, the repeated repairs have been admitted by the appellant would show that the Air Conditioners were not functioning properly. The District Forum was, therefore, justified in ordering the refund. We direct that on the payment, the Respondent Bank shall return all the Air Conditioners on as and where basis. We, therefore, pass the following order. ORDER The appeal is dismissed with however, no orders as to cost. Appeal dismissed.