

(2010) 11 KL CK 0196
In the High Court Of Kerala
Case No : WA. No. 1947 of 2010

State Bank of Travancore and Latha K.	APPELLANT
Vs	
Model Plastic Products Pvt. Ltd.	RESPONDENT

Date of Decision : 25-11-2010

Acts Referred:

Consumer Protection Act, 1986 — Section 17, 19, 21

Citation : (2010) 11 KL CK 0196

Hon'ble Judges : Jasti Chelameswar, C.J;P.R. Ramachandra Menon, J

Bench : Division Bench

Advocate : T. Sethumadhavan, for the Appellant;

Final Decision : Dismissed

Judgement

1. Chelameswar, C.J.—The unsuccessful Petitioner in W.P.(C) No. 29827 of 2009 is the Appellant herein. By judgment dated 10.06.2010, a learned Judge of this Court dismissed the Writ Petition on the ground that the Appellant herein has an alternative remedy available under the provisions of Consumer Protection Act, 1986.

2. The Appellants are; a Nationalised Bank and an officer of the said bank. The sole Respondent made an application soliciting a loan which was rejected by the Appellants. Complaining that the Appellants are in guilty of a deficient service, the Respondent approached the Thrissur District Consumer Dispute Redressal Forum.

3. The Forum accepted the complaint of the Respondent and directed the Appellants herein to pay a compensation of `5,000/- for the deficiency in service and cost `500/-. Aggrieved by the same, the Appellants approached the State Appellate Commission established under the abovementioned Act. The Commission also dismissed the appeal and they approached this Court. The learned Judge dismissed the writ petition on the ground that the Appellants herein can approach the National Forum established under the abovementioned

Act and therefore they have an efficacious alternative remedy.

4. The learned Counsel for the Appellant submitted that though the National Commission is conferred with the appellate jurisdiction, in view of the language of Section 19 of the Act, the appellate jurisdiction is limited only to the orders passed by the State Commission in exercise of the original jurisdiction, but not in exercise of the appellate jurisdiction. Section 19 reads as follows:

19. Appeals.- Any person aggrieved by an order made by the State Commission in exercise of its powers conferred by Sub-clause (i) of Clause (a) of Section 17 may prefer an appeal against such order to the National Commission within a period of thirty days from the date of the order in such form and manner as may be prescribed: Provided that the National Commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period. Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the State Commission, shall be entertained by the National Commission unless the Appellant has deposited in the prescribed manner fifty per cent of the amount or rupees thirty-five thousand, whichever is less.

5. We do not see any difficulty in accepting the submission made by the Appellant in this regard. However, the difficulty comes with regard to Section 21. Section 21 reads as follows:

21. Jurisdiction of the National Commission. Subject to the other provisions of this Act, the National Commission shall have jurisdiction-

(a) to entertain

(i) complaints where the value of the goods or services and compensation, if any, claimed exceeds Rupees one crore; and

(ii) appeals against the orders of any State Commission, and

(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.

6. The learned Counsel however submitted that the jurisdiction under Clause (b) could be exercised by the National Commission only by suo motu but not on an application by the aggrieved party. We do not see anything in the language of Section 21 which limits the jurisdiction of National Commission as suggested by the learned Counsel. In the circumstances we do not see any reason to interfere with the judgment under appeal. The appeal is therefore dismissed.

7. In the circumstances, we also deem it appropriate that if the Appellants approach the National Commission within a period of 30 days from today, the

application of the Appellants shall be entertained notwithstanding the rules of limitation applicable to the National Forum as the Appellants are bona fide prosecuting the proceedings in this Court.