

(2009) 04 NCDRC CK 0012

In the National Consumer Disputes Redressal Commission

T. Sessaiah And Anr.

APPELLANT

Vs

Standard Chartered Bank And Anr.

RESPONDENT

Date of Decision : 20-04-2009

Acts Referred:

Citation : 2009 2 CPJ 358

Hon'ble Judges : R.K.BATTA , S.K.NAIK J.

Advocate : N.K.JAIN

Judgement

1. HEARD the learned Counsel for the petitioner who has urged before us that the complaint filed by the petitioners before the District Forum was filed within the period of limitation inasmuch as the cause of action is continuing cause of action and alternatively, the petitioner had shown sufficient cause for condonation of delay. It was also urged that it was the duty of the respondents to consider the representations but the respondents neither considered the representations, nor sent any reply except for reply dated 13.3.2002, wherein it was stated that the respondent was looking into the matter and will revert shortly. He further contends that both the Fora below erred in rejecting the matter on the ground of limitation.

2. THE case of the complainant/petitioner is that the respondents sold away their shares and credited a sum of Rs. 26,881.50 on 22.1.1999, Rs. 1,67,188.89 on 3.2.1999 and Rs. 89,265 on 27.3.1999. This fact was informed by the respondent to the petitioner by notice dated 3.9.1999. The fresh notice was issued by the petitioner on 3.8.2000. The complaint was admittedly filed on 5.1.2006. Application for condonation of delay of 1445 days was also filed. The reasons given in the affidavit in support of application for condonation of delay are that the respondent No. 1 had sold the shares on 22.1.99, 3.2.99 and 27.3.99 without their knowledge and consent; that the petitioner had sent legal notice dated 6.3.2000 to the respondent of which reply was given by the respondents by letter dated 13.3.2000; thereafter the petitioner had sent various representations to the respondents on 3.8.2000, 8.11.2000, 17.5.2000,

10.12.2001, 10.6.2002, 27.4.2003, and also issued second legal notice on 5.9.2005. However, there was no response as a result of which, the complaint was filed with 1445 days delay, which was neither intentional, nor wilful. District Forum as also the State Commission has recorded findings that the petitioner has not shown sufficient cause for condoning delay. It is no doubt true that sufficient cause has to be liberally construed, but, the requirement of sufficient cause has not been dispensed with.

3. THE case of the petitioner is that the respondents had sold their shares without their consent and credited various amounts in the Account of the petitioner; namely, Rs. 26,881.50 on 22.1.99, Rs. 1,67,188.89 on 3.2.1999 and Rs. 89,265 on 27.3.99 and informed of this fact to the petitioner by notice dated 3.11.1999. Therefore, the period of limitation for seeking remedy against the said action of the respondents would start from 3.11.1999. The petitioner had sent legal notice dated 6.3.2000 and respondent sent reply on 13.3.2000. Therefore, at the most, the period of limitation would start running from 13.3.2000. The case of the petitioner is that they had also issued legal notice on 3.8.2000 and thereafter had continued making various representations till final legal notice was issued on 5.9.2005. Learned Counsel for the petitioner had relied upon judgment of the Apex Court in *Lata Construction and Ors. v. Dr. Rameshchandra Ramniklal Shah and Anr.*, III (1999) CPJ 46 (SC)=X (1999) SLT 77=(2000) 1 SCC 586. In support of his submission that the cause of action in this case has been held to be a continuing cause of action. In the said ruling, the Apex Court has come to the conclusion that cause of action is a continuing cause of action on the basis of facts in the said case. Whether cause of action is a continuing cause of action or not would depend upon the facts and circumstances of each case. In the case under consideration, we do not find that the cause of action, which arose on account of letter dated 3.11.1999, would be a continuing cause of action inasmuch as the respondent had informed the petitioner of the sale of their shares and credit of amount thereof in their account. The case of the complainant is that the legal notice was issued on 6.3.2000 and 3.8.2000 after which also several notices were sent and thereafter final legal notice was sent on 5.9.2005. It is now well settled that mere filing of repeated representations do not extend the period of limitation. In this case at the most cause of action can be stretched to 13.3.2000, when first notice dated 6.3.2000 issued by the petitioner to the complainant was replied by respondent in which it was stated that the matter was being looked into and the respondents will revert shortly. When the respondent did not revert shortly, the petitioner should have immediately approached the District Forum. Expression shortly cannot be stretched and interpreted that the petitioner should wait indefinitely for years together. Thus, the complaint was filed which was beyond the period of limitation and there was substantial delay of 4 years in approaching District Forum. The reasons given by the petitioner that the petitioner continued to make representations and finally notice was issued on 5.9.2005, cannot be considered to be a sufficient cause. In such circumstances, it is well settled that making of

any subsequent representation cannot extend the period of limitation.

4. FOR the aforesaid reasons, we do not find any merit in the revision. In such circumstances, both the Fora below have refused to condone delay and we concur with the view taken by the two Fora below. The revision is accordingly dismissed with no order as to costs R.P. dismissed.