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ITEM NO.3

COURT NO.3

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).10517/2013

(From the judgement and order dated 04/01/2013 in RP No.897/2012 of The NATIONAL CONSUMERS DISPUTES REDRESSAL COMMISSION, NEW DELHI)

SHRRIRAM TRANSPORT FINANCE CO LTD

Petitioner(s)

VERSUS

SYED MAHABOOB ALI

Respondent(s)

(With appln(s) for exemption from filing O.T. and prayer for interim relief and office report)

WITH SLP(C) NO. 11306 of 2013

(With prayer for interim relief and office report)

Date: 19/03/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR JUSTICE KURIAN JOSEPH

For Petitioner(s) Mr. Lenin Singh Hijam,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

These petitions are directed against order dated 4.1.2013 passed by the National Consumer Disputes Redressal Commission whereby the revision petitions filed by the petitioner were dismissed with cost of Rs.20,000/- and the orders passed by the State Consumer Disputes Redressal Commission, Andhra Pradesh, which had approved the directions given by the District Consumer Forum-II, Vijayawada, were upheld.

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The respondent purchased three autos (TATA Ace) in September, 2008. The petitioner had financed the purchase and the respondent hypothecated the vehicles in favour of the petitioner. He filed complaints under Section 12 of the Consumer Protection Act, 1986 (for short, 'the Act') alleging therein that the petitioner had, without giving any intimation or notice, forcibly seized all the vehicles. The complaints were allowed by the District Forum vide orders dated 21.3.2011. The operative portion of the order passed in Consumer Complaint No.96/2011 is reproduced below:

"In the result, the complaint is allowed and the opposite party is hereby directed to submit/furnish the account copy to this Forum within seven days from the date of this order for all the three autos

mentioned supra, and to return three autos to the complainant and to proceed for recovery of EMIs as per law or otherwise pay an amount of Rs. 1,28,900/- + Rs.72,000/- + Rs.57,800/- to the complainant within one month from the date of this order and do pay Rs.5,000/- towards mental agony and do pay Rs.2,000/- towards costs."

Somewhat similar orders were passed in the other two complaints.

The petitioner challenged the orders of the District Forum by filing appeals under Section 17 of the Act. It also filed an applications for condoning of 168 days delay. The State Commission dismissed the applications for condonation of delay by observing that the cause shown by the petitioner was wholly unsatisfactory. The State Commission observed that notice issued by the District Forum had been duly served upon the petitioner but no one appeared on its behalf necessitating passing of an ex-parte order by the District Forum. The National Commission dismissed the revision petitions by observing that the reasons assigned by the State Commission for refusing to condone the delay were legally correct.

We have heard Mr. Lenin Singh Hijam, counsel appearing for the petitioner and carefully scrutinized the record. In our view, the District Forum did not commit any error by entertaining and allowing the complaints filed by the respondent because the petitioner had unauthorizedly removed the autos which were financed by it. The District Forum noted that even though notice of the complaints were duly served upon the petitioner, it did not contest the same. The State Commission rejected the application for condonation of delay by observing that the notice had been duly served upon the petitioner and there was no cause for its non-appearance.

In our view, the concurrent findings recorded by the District Forum and the State Commission that notice issued by the first Forum on the complaint filed by the respondent had been duly served upon the petitioner was based on correct appreciation of the documents forming part of the record of the District Forum. Therefore, the State Commission was justified in refusing to condone 168 days delay in the filing of appeals against the orders of the District Forum.

Though not required by law, the National Commission reconsidered the issue of delay in detail and rightly held that the cause shown by the petitioner was wholly unsatisfactory.

The special leave petitions are accordingly dismissed. We would have saddled the petitioner with exemplary costs for making a false statement before the State Commission and the National Commission that notice issued by the District Forum has not been served upon it but keeping in view the fact that it is represented by a young member of the Bar, we refrain from doing so.

The petitioner is allowed four weeks time to comply

with the directions contained in the order of the District Forum and submit a report to this effect in the Registry of the District Forum.

If it is found that the petitioner has not complied with the directions contained in the order of the District Forum coupled with the one contained in this order, the District Forum shall initiate proceedings under Sections 25 and 27 of Consumer Protection Act, 1986.

The Registry is directed to send copies of this order to the President, District Consumer Disputes Redressal Forum-II, Vijayawada and also to the respondent at the address mentioned in the memo of special leave petitions.

[SUMAN WADHWA]
COURT MASTER

[PHOOLAN WATI ARORA]
COURT MASTER