

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS  
BEFORE THE REGISTRAR S.G. SHAH  
IA.No.3 IN CIVIL APPEAL NO(s). 2703 OF 2007

ASHFAQUE KARIM

Appellant (s)

VERSUS

MASARAT ISLAM SOHARWARDY

Respondent(s)

Date: 09/09/2008 This Appeal was called on for hearing today.

For Appellant(s)

Mr. Irshad Ahmad, Adv.

For Respondent(s)

Mr. Subhash Sharma, Adv.

UPON hearing counsel the Court made the following  
ORDER

The main civil appeal is dismissed on 14.5.2007.

While filing the appeal, in terms of Section 23 of the Consumer Protection Act, 1986, the appellant has deposited an amount of Rs.50,000/-. For such amount there is practice direction dated 1.9.2003; by the Hon'ble The Chief Justice of India as referred in the office report dated 4.4.2008, which provides that pending amendment of Supreme Court Rules as proposed, such amount may be deposited in the suitor's fund account which will not bear any interest and that the amount so deposited by the appellant will remain in the suitor's fund account till the disposal of the appeal or till such time as Hon'ble Court may direct from time to time; with further directions that if the appeal is allowed by the Court the amount deposited by the appellant would be refunded to him without interest but if it is dismissed, the same will be allowed to be withdrawn by the respondent or may be disbursed as per direction of the Hon'ble Court in that behalf.

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After disposal of the main appeal on 14.5.2007 the appellant has first time on 26.3.2008 filed an I.A.No.2 seeking refund of the amount of Rs.50,000/- deposited by him. In such I.A.No.2 Hon'ble the Chamber Judge has passed the following order on 06-05-08;

"The amount deposited by the appellant may be remitted to the National Consumer Disputes Redressal Commission for disbursement thereof to the respondent".

Thereby office has to remit the amount to the National Consumer Disputes Redressal Commission as per directions of the Hon'ble the Chamber Judge.

It seems that even after such specific order, office has listed the I.A.No.2 before the Registrar's Court-1 on 15.5.2008 with office report dated 13.5.2008 for orders regarding payment of Rs.50,000/- lying in the suitor's fund to the Registrar, National Consumer Disputes Redressal Commission, New Delhi; when Registrar's Court No-1 prepared a proceeding stating, "Deleted".

On perusal of the noting sheet, it is found that on

04.06.08 (page 13 of the noting sheet) office has endorsed for administrative order for remitting the amount to the National Consumer Disputes Redressal Commission as per order of the Hon'ble Chamber Judge dated 6.5.2008; thereupon Registrar(J) has endorsed to sought direction from the Hon'ble Court in view of the averments made in the I.A. regarding full satisfaction of the dues to the respondent.

Till such date i.e. 4.6.2008, noting portion was not disclosing the fact of the present I.A.No.3 whereby appellant is seeking modification/clarification of the order dated 06-05-08 passed in I.A.No.2/2008 by the Hon'ble Chamber Judge, thereby seeking permission to

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withdraw the said amount of Rs.50,000/- which was deposited u/s 23 of the Consumer Protection Act, on such filing of the appeal before this Court.

In such I.A.No.3, Hon'ble the Chamber Judge has on 23.7.2008 after referring previous order dated 06-05-08 ordered to request National Consumer Disputes Redressal Commission to verify the claim of appellant and, in the event it is found that it is remitted to satisfy the amount of Rs. 50,000/- or any other amount which has been deposited by the appellant in excess be refunded to him. I.A.No.3 is disposed of with the above mentioned observations.

Thus the directions of the Hon'ble the Chamber Judge is quite clear that office has to verify from the National Consumer Disputes Redressal Commission regarding the claim of the appellant that whether it stood satisfied or not. After order of the National Consumer Disputes Redressal Commission then and then the amount in question is to be refunded to the appellant/applicant.

Therefore the Registry has to verify from the National Consumer Disputes Redressal Commission as per the directions of the Hon'ble Chamber Judge in order dated 23.7.2008.

It seems that instead of inquiring from the National Consumer Disputes Redressal Commission, Registry has again listed the matter before the undersigned on 6.8.2008 with office report for orders regarding payment of Rs. 50,000/- to the Registrar National Consumer Disputes Redressal Commission, New Delhi.

By an order dated 6.8.2008 Registry was directed to comply with the order dated 23.7.2008 by the Hon'ble Chamber Judge.

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In compliance of the above order now in response to the Registry's letter dated 9.8.2008, the Joint Registrar of the National Consumer Disputes Redressal Commission as by its letter No.NCDRC/Misc. dated 08.09.2008 informs the Registry that;

"..... as per this commission's order execution application No.9/2007 in Original Petition No.183/1997(copy enclosed), so far as decretal amount of Rs. 10.5 lakhs has been paid by the Opposite Party - Ashfaque Karim, but neither the complainant nor the Opposite Party has confirmed so far as whether the interest for the period from 1.7.2007 to 31.10.2007 has been paid by the Opposite Party to the Complainant. An application for refund of Rs.50,000/- is pending before this Commission for refund to the Opposite Party till the

confirmation regarding the payment of interest from 1.7.2007 to 31.10.2007 is either furnished by the Opposite Party or by the Complainant before this Commission".

An order dated 12.11.2007 in execution application No.9/07 in Original Petition 183/1997 by National Consumer Disputes Redressal Commission, New Delhi is attached with such letter wherein National Consumer Disputes Redressal Commission has categorically ordered that;

"..... the dispute now remains only about interest for four months from 1.7.2007 to 31.10.2007. Learned counsel for the Opposite Party seeks four weeks time to make balance payment of interest. Time, as prayed for, granted. Learned counsel for the Opposite Party shall send a crossed cheque for the balance amount of interest for the aforesaid delayed period at the address at which the earlier cheque was sent. On receipt of the amount the complainant shall inform this Commission in writing with the copy to the Opposite Party. The

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Opposite Party shall also inform this Commission after sending cheque to the complainant. On receipt of the aforesaid amount the execution proceeding would come to an end due to the satisfaction of the entire claim and shall not be required to be listed any further on receipt of intimation of payment by the complainant otherwise, matter shall be listed on 3.1.2008".

In view of the above details, it is certain that appellant herein, who is opponent in the original petition before National Consumer Disputes Redressal Commission has to make the payment of interest for four months from 1.7.2007 to 31.10.2007 by a cheque and to inform National Consumer Disputes Redressal Commission about such compliance. However, by a letter dated 8.9.2008, the Registrar of National Consumer Disputes Redressal Commission has conveyed that Opposite Party has not confirmed so far whether the interest for the period 1.7.2007 to 31.10.2007 has been paid by the Opposite Party i.e. appellant herein to the original complaint.

Hence it is uncertain that whether the entire amount of compensation with interest, as directed by National Consumer Disputes Redressal Commission is paid to the original complainant by the present appellant or not and that whether thus the order of the National Consumer Disputes Redressal Commission is fully satisfied or not.

Therefore the request of the learned counsel for the appellant to refund the amount to the appellant cannot be allowed.

In view of the above circumstances Registry has to clarify that once Hon'ble Chamber Judge has given specific direction why the matter is listed before this court. Registry has to take appropriate steps as per rule.

(S.G.SHAH)  
Registrar