

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6999 OF 2004

M.D., H.C.L. LTD. & ORS.

.....APPELLANTS

VERSUS

SANTOSH KUMAR

.....RESPONDENT

O R D E R

This appeal directed against order dated 25.02.2003 passed by the National Consumer Disputes Redressal Commission (for short, 'the National Commission') was admitted for the purpose of deciding the question whether in the absence of any statutory prescription, the revision filed by the appellant against the order of State Consumer Disputes Redressal Commission, Uttar Pradesh (for short 'the State Commission') could be dismissed on the ground that the same had been filed after 90 days.

During the pendency of the appeal, the National Commission, in exercise of its power under Section 30A of the Consumer Protection Act, 1986 (for short, 'the Act') framed the Consumer Protection Regulations, 2005 (for short, 'the Regulations'). Under clause 14 thereof limitation of 90 days has been prescribed for filing revision.

Although, learned counsel for the appellants appears to be right in contending that clause 14 of the Regulations cannot be relied upon for justifying dismissal of the revision preferred by the appellants against the order of the State Commission because the Regulations were not in existence at the relevant time, but having carefully perused the orders passed by District Consumer Disputes Redressal Forum, Siddhartha Nagar (for short 'the District Forum') and the State Commission, we are convinced that the matter need not be remanded to the National Commission for adjudication of the revision petition on merits.

The respondent had purchased an electrostat photocopier from appellant No.1 at a cost of Rs.63,000/-. For this purpose, he collected margin money of Rs.16,000/- and availed financial facilities to the tune of Rs.47,000/- from Bansi Branch of the State Bank of India. In terms of the agreement entered into between appellant No.1 and respondent, the former was to supply the machine and install the same. The machine was delivered on 21.8.1993 but no one visited the respondent's premises for its installation till 28.2.1994. When the machine was opened by the maintenance engineer of appellant No.1, the inner pack of thermocol and papers were found to be broken into pieces. As soon as the machine was installed and switched on, smoke started coming out of it. The concerned engineer of appellant No.1 found that the smoke was coming from the exposure lamp. Appellant No.1 promised to supply new exposure lamp and make the machine operational but nothing was done despite written representations of the respondent.

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Having found himself in a piquant situation in which he could neither operate the machine nor pay the loan, respondent No.1 filed complaint under Section 12 of the Act for issue of a direction to appellant No.1 to replace the machine and pay compensation for the financial and other losses suffered by him. The appellants contested the complaint and pleaded that they were not responsible for damage to the wires of the exposure lamp which may have been damaged by the rodents.

The District Forum noted that the opposite parties had not given any explanation for not installing the machine for a period of 6 months and held them liable to compensate the respondent. Accordingly, a direction was given to them to instal the machine within one month and pay compensation to the respondent at the rate of Rs.2,000/- per month with effect from 1.9.1993 till the date of installation or pay the sale price i.e., Rs.63,000/- with interest at the rate of 18% per annum from 14.7.1993.

The appellants challenged the order of the District Forum by filing an appeal under Section 15 of the Act. The State Commission,

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Appellant(s) Mr.Vikas Upadhyay, Adv.
 Mr. B.S. Banthia,Adv.

For Respondent(s) Mr.Manish Kumar, Adv.
 Mr.Mayank Mishra, Adv.
 Mr. Rakesh K. Sharma,Adv.

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

The appeal is dismissed in terms of the signed order. Interim
order dated 11.09.2008 passed by this Court shall stand
automatically vacated.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed order is placed on the file)