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C.A.No. 2110 OF 1999

ITEM No.115

Court No. 9

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. 2110 of 1999

DISTRICT TELECOM ENGINEER, AMRAVATI & ANR. Appellant (s)

VERSUS

LAXMI Respondent (s)

Date : 01/04/2004 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Appellant (s) Mr. Hemant Sharma, Adv.
Mr. S.N. Terdal, Adv.
for Mr. Arvind Kumar Sharma, Adv.

For Respondent (s) Mr. Sanjiv Sen, Adv.
Ms. Nandini Gore, Adv.

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

Heard the learned counsel for the parties from 12.15 p.m. to 12.40 p.m.

The civil appeal is disposed of.

No costs.

[T.I. Rajput][Shelly Sengupta]
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2110 OF 1999

District Telecom Engineer, Amravati & Anr. ...Appellant(s)

Versus

Laxmi . . . Respondent(s)

O R D E R

The respondent approached the Consumer Disputes Redressal Forum, Amravati [for short, "the District Forum"] making a complaint that Telephone No. 74433, which she had, was allotted to one Maratha Band Party without notice to her and without any justification; on account thereof, she suffered some inconvenience and loss, being a leading lawyer; and her clients could not contact her on that number for professional work. Thus, according to her, there was deficiency in service on the part of the appellant. The District Forum passed the order directing to restore Telephone No. 74433 to the respondent within thirty days, to pay a sum of Rupees five thousand as damages, which shall be recovered from the officers of the appellant responsible for the arbitrary change of the indicator number and to pay Rupees five hundred as the cost of litigation. Further direction was given that in default of restoration of the

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indicator number, the appellant shall pay Rupees five hundred per day after the expiry of thirty days till indicator No. 74433 was restored. The appellant challenged the order of the District Forum before the Consumer Disputes Redressal Commission [for short, "the State Commission"]. The State Commission recorded a finding that in the whole of the area in the telephone exchange, the single number of the respondent was changed without disturbing anybody's number. The State Commission, affirming the order of the District Forum, dismissed the appeal. The appellant filed revision petition before the National Consumer Disputes Redressal Commission [for short, "the National Commission"]. The National Commission did not find any illegality or jurisdictional error in the order passed by the State Commission affirming the order made by the District Forum and dismissed the revision petition. Hence, this appeal.

The learned counsel for the appellant contended that mere change in the indicator number of the telephone of the respondent did not amount to deficiency in service; it is not the indicator number of the telephone of the respondent alone which was changed but as many as fifty telephone numbers in that area were changed. The learned counsel also urged that awarding of Rupees five hundred per day in default of restoring the indicator number 74433 was arbitrary and unreasonable.

Per contra, the learned counsel for the respondent made submissions supporting the impugned order. The learned counsel submitted that the District Forum as well as the State Commission have recorded a concurrent finding that the appellant did not have any technical difficulty but the appellant has changed the indicator number of the telephone

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of the respondent alone and that too, without notice. According to the learned counsel, there was deficiency of service on the part of the appellant and the District Forum was right in granting relief to the respondent and no fault could be found with the order of the State Commission affirming the order passed by the District Forum. The learned counsel submitted that the National Commission rightly dismissed the revision petition when no jurisdictional error or illegality was pointed out in the order passed by the State Commission affirming the order passed by the District Forum.

We have before us concurrent findings of fact recorded by the District Forum as well as the State Commission, which findings were not disturbed by the National Commission. It has been found that there was deficiency of service on the part of the appellant by the fora. Under the circumstances, on the facts found by the fora, it is not possible for us to take a different view merely on the statement or assertion of the appellant to the contrary. We find some justification in the submission of the learned counsel for the appellant that the direction to pay Rupees five hundred per day, by the appellant, to the respondent in default of not restoring the indicator Number 74433 to the respondent after the expiry of thirty days is unreasonable. In our view, it would be just and appropriate to award a total amount of Rupees twenty five thousand to be paid by the appellant to the respondent, subject to the condition that the appellant shall restore the indicator number 74433 to the respondent, if not already restored.

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The directions as regards payment and restoration of the indicator number 74433 shall be complied with within one month from today. The order of the District Forum, to the extent indicated above, stands modified; in all other respects, it stands undisturbed.

The civil appeal is, accordingly, disposed of.

No costs.

.....J.
[SHIVARAJ V. PATIL]

.....J.
[Dr. AR. LAKSHMANAN]
New Delhi,
April 01, 2004.