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C.A.No. 1537 OF 1999

ITEM No.102

Court No. 8

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. 1537 of 1999

M.A. UNEERIKUTTY Appellant (s)

VERSUS

K. VASUDEVAN NAIR & ORS.Respondent (s)

(With prayer for interim relief)

Date : 06/04/2004 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL  
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s)Mr. K. Sukumaran,Sr.Adv.  
Ms. Karthika S.,Adv.  
Mr. N.R. Shonker,Adv.  
Mr. Balraj B.,Adv.  
Mr. B.V. Deepak,Adv.

For Respondent (s)Ex-parte

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

Heard the learned senior counsel for the appellant from 10.30 a.m. to 11.05 a.m.

The civil appeal is dismissed.

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. 1537 OF 1999

M.A. Uneerikutty ...Appellant(s)

Versus

K. Vasudevan Nair & Ors. ...Respondent(s)

O R D E R

Despite service of notice, neither the respondents are present nor represented. We have heard the learned senior counsel for the appellant.

A complaint was made by the first respondent against the appellant for deficiency in service in respect of a marriage hall booked by him, including catering. The Consumer Redressal District Forum [for short, "the District Forum"], looking to the documentary evidence contained in Exhibits A-1 to A-5 and oral evidence of the first respondent [CW-1] recorded a finding that there was deficiency in service and in that view, it awarded a compensation of Rupees ten thousand to the first respondent in addition to Rs.16,400/- on account of short service of food. Thus, a total amount of Rs.26,400/- was ordered to be paid by the appellant to the first respondent. The appellant, aggrieved by the order passed by the District Forum, filed an appeal before the State Consumer Disputes Redressal Commission [for short, "the State Commission"].

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The State Commission, by a detailed order after re-appreciating the evidence placed on record, did not find any good ground to take a different view than the one taken by the District Forum. The appellant pursued the matter further by filing a revision petition before the National Consumer Disputes Redressal Commission [for short, "the National Commission"]. The National Commission summarily dismissed the revision petition. Hence, this appeal.

The learned senior counsel appearing on behalf of the appellant contended that the National Commission ought to have passed a reasoned order; the impugned order neither reflects the facts nor the contentions raised on behalf of the appellant. According to him, it is a cryptic order. The learned counsel emphasised that the appellant was not given sufficient opportunity to lead evidence. He complained that the District Forum passed the order after recording the evidence of CW-1 and without affording any further opportunity to the appellant to lead evidence.

This being the position, the National Commission ought to have afforded opportunity to the appellant to lead evidence when a specific ground was raised in the revision petition that opportunity was not given to the appellant to lead evidence. It was also contended that there is no deficiency in service, having regard to the facts of the case.

It is clear from the records that the first respondent examined himself and produced Exhibits A-1 to A-5. Looking to these documents coupled with the oral evidence of CW-1, the District Forum found substance in the complaint and held that there was deficiency in service. It, accordingly, passed the order directing the appellant to pay a sum of Rs.26,400/-. The State Commission, in the absence of any evidence on the side of the appellant and on

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the basis of the available material on record after re-appreciation, came to the same conclusion, as that of the District Forum. It does not appear that any argument was advanced before the State Commission that opportunity was not given to the appellant to lead evidence or that the appellant prayed for any opportunity and sought for remand of the case to the District Forum. It also does not appear from the order of the District Forum that the appellant prayed for an opportunity to lead evidence at any time. Nothing prevented the appellant from making an application seeking opportunity to lead evidence. In view of these facts, it is difficult to accept the contention, at this stage, that the appellant should have been given opportunity to lead evidence. In the absence of evidence on behalf of the appellant, it is not possible to say that the finding recorded by the District Forum, as affirmed by the State Commission, is wrong. Merely because a ground was raised before the National Commission that opportunity to lead evidence was not given to the appellant was not sufficient to say that such a ground was urged before the District Forum or the State Commission. We may also add that the National Commission, concurring with the order passed by the State Commission, affirming the order of the District Forum, has not passed a detailed order exercising its revisional jurisdiction although it would have been desirable to pass a reasoned order, may be a brief one. The order of the National Commission, even though it is not a detailed one, does not vitiate the findings recorded by the District Forum, as affirmed by the State Commission when they are otherwise justified.

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The learned counsel, at this stage, submitted that the appellant is a reputed concern and on account of the order passed by the District Forum, the reputation has suffered. We make it clear that it is only a case of deficiency in service to a given party and it may not be taken as affecting the reputation of the appellant.

Under these circumstances, we do not find any merit in the appeal. Consequently, it is dismissed.

The interim order passed by this Court on 15th March, 1999 stands vacated.

No costs.

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

.....J.  
[D.M. DHARMADHIKARI]  
New Delhi,  
April 06, 2004.