

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil)No.18787/2011

(From the judgment and order dated 09/05/2011 in RP No.1353/2011 Of The NATIONAL CONSUMERS DISPUTES REDRESSAL COMMISSION, NEW DELHI)

Branch Manager, Shriram Transport  
Finance Co. Ltd. and another

... Petitioner(s)

Versus

Muntizir Khan

... Respondent(s)

(With application for exemption from filing Official Translation,  
permission to file additional documents and office report)

Date: 15/07/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI HON'BLE MR. JUSTICE V. GOPALA  
GOWDA

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

For Respondent (s) None

UPON hearing counsel the Court made the following

## ORDER

Having failed to convince District Consumer Disputes Redressal Forum, Guna (for short, 'the District Forum'), Madhya Pradesh State Consumer Disputes Redressal Commission (for short, 'the State Commission') and the National Consumer Disputes Redressal Commission (for short, 'the National Commission') to accept their plea that the truck of the respondent was seized by the officers and employees of Shriram Transport Finance Co. Ltd. (for short, 'the Finance Company') after giving notice to him, the petitioners have invoked jurisdiction of this Court under Article 136 of the Constitution.

The respondent entered into a Loan-cum-Hypothecation Agreement with the Finance Company for grant of loan amount of Rs.1,85,000/- for purchase of a truck. In terms of the agreement, the respondent was required to repay the loan in 34 instalments of Rs.7,347/-. In December, 2007, the officers and employees of the Finance Company seized the truck and sold the same for a paltry amount of Rs.1,25,000/-.

The respondent challenged the aforesaid action by filing complaint under Section 12 of the Consumer Protection Act, 1986. The District Forum took cognizance of the instalments paid by the respondent and the fact that no notice was given to him before the truck was seized and held that the action of the petitioners was illegal per se. The District Forum accordingly directed the petitioners to refund the amount of instalments paid by the respondent with interest at the rate of 9 per cent per annum.

The State Commission independently analysed the pleadings of the parties and expressed its agreement with the District Forum that the petitioners could not have repossessed the truck without giving notice to the respondent.

The National Commission dismissed the revision petition by recording the following observations:

"3. Both the Fora below found that the respondent had deposited instalments. The learned counsel for the petitioners submits that notices were served on the respondent prior to effecting

seizure and has placed on record copies of the notices dated 28.5.2007 and 28.7.2007. We find that the reply given before the District Consumer Forum and memorandum of appeal does not reflect such contention of giving notices to the respondent (Complainant). Learned counsel argued that non-consideration of the important document i.e. the notices, is therefore perversity resulted in miscarriage of justice which vitiates finding of both the fora below. He referred United India Insurance Co. Ltd. and others Vs. Roshan Lal Oil Mills Ltd. and others, (2000) 10 SCC 19. In the given case, the Surveyor's report was on record, but was not at all considered but in the present case the notice relied upon by the petitioners are not at all referred to in reply filed before the District Consumer Forum and the State Commission. Obviously, there is no such reference to the said documents by either Fora below. It cannot be said, therefore, that any material was ignored by the District Consumer Forum or State Commission."

We have heard Shri Lenin Singh Hijan, learned counsel for the petitioners at length and carefully perused the record. We have also gone through the pleadings of the complaint filed under Section 12 of the Consumer Protection Act, 1986 and the additional documents filed by the petitioners before this Court.

In our view, the National Commission rightly held that the petitioners had failed to adduce evidence to prove that the notice allegedly issued to the respondent was served upon him and that without ensuring service of notice, they could not have seized the truck and sold the same.

With the above observation, the special leave petition is dismissed.

The petitioners are allowed three months' time to implement the direction given by the District Forum.

The Registry is directed to send a copy of this order to the respondent by registered post at the address mentioned in the memo of the special leave petition.

(Kalyani Gupta)  
Court Master

(Usha Sharma)  
Court Master

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