

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil)...../2012
(CC 13493/2012)
(From the judgement and order dated 01/02/2011 in RP No.1560/2010 of The
NATIONAL CONSUMERS DISPUTES REDRESSAL COMMISSION, NEW DELHI)

GITA KUMAR PATEL Petitioner(s)

VERSUS

MANOHAR PATEL Respondent(s)

With I.A.1 (C/delay in filing SLP)

Date: 21/08/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s) Mr.S.K.Jha, Adv.
Mr.R.D.Rathore, Adv.
Mr. Chander Shekhar Ashri, Adv.

For Respondent(s)

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

This is a petition for setting aside the order of the National Consumer Disputes Redressal Commission (for short, 'the National Commission') whereby the petitioner's prayer for quashing the direction given by the State Consumer Disputes Redressal Commission (for short, 'the State Commission') for refund of Rs.2,00,000/- to the respondent was dismissed but the direction given for payment of interest at the rate of 9% was set aside. The petitioner has also filed an application for condonation of 448 days delay in filing the special leave petition.

We have heard learned counsel for the petitioner and perused the record. In paragraph 3 of the application for condonation of delay, the petitioner has averred as under:

"That the case was filed but unfortunately, the petitioner was not informed about the fate of the case. The petitioner asked his counsel about the progress of the case time and again he got the reply that the case was pending, but unfortunately, the petitioner came to know on 29.6.2012 when the warranty of attachment has been issued against him and the case had already been decided on 1.2.2012. Then the petitioner after arranging some funds approached the counsel in the Supreme Court to file the Special Leave Petition in this Hon'ble Court against the order of the State Consumer Commission. The delay is caused accordingly which is not intentional but is due to some unavoidable circumstances which may be condoned in the interest of justice."

In our view, the explanation given by the petitioner is wholly unsatisfactory and there is no warrant for exercise of power by this Court under Section 5 of the Limitation Act for condonation of 448 days delay. Even on merits, we are convinced that the direction given by the State Commission for refund of Rs.2,00,000/- paid by the respondent for supply of Eicher Tractor by the petitioner, which was re-possessed by him on account of non-payment of balance amount of Rs.1,00,000/- was legally correct and

the National Commission did not commit any error by declining to interfere with the same.

The special leave petition is, accordingly, dismissed on the ground of delay and also on merits.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master