

Amar Jwala Paper Mills (India) and Another

Vs

State Bank of India

Civil Appeal No. 6277 of 1997

(S. P. Bharucha, M. Jagannadha Rao JJ)

19.02.1998

ORDER

1. The order under appeal was passed on 26-3-1997 in a complaint that was filed before the National Consumer Disputes Redressal Commission, New Delhi, in 1993. The order states that

"the dispute raised by the complainant involves complicated issues of fact and law, the satisfactory determination of which cannot be made except after elaborate evidence is adduced (both oral as well as documentary) and detailed arguments are heard, all of which can be properly done only in a regular suit instituted before a civil court".

The complainant was relegated to the remedy of filing a civil suit. It is in appeal by special leave.

2. What the order under appeal does not say is (and this is admitted by both sides) that all the evidence, oral and documentary, that both sides had to lead was led before the Commission and that concluding arguments were in progress when the impugned order was passed. It cannot be that the complexity of the matter was only discovered at the stage of the concluding arguments, and for this purpose we assume that there is some complexity in the matter for reading the complaint and the reply does not suggest it. The case of the complainant is that the respondent-Bank had sanctioned cash credit facilities in a certain sum and had, without notice to the complainant, reduced that sum causing loss to the complainant, which loss was claimed by the complainant.

3. Relegating a complainant four years after the filing of the complaint to a civil suit might mean that the complainant has no remedy at all because limitation would have run against him.

4. While we would be reluctant to interfere with an order of the Commission that decides at an initial stage of a complaint that complicated questions of fact and law arise and that, therefore, the complainant must go before a civil court, we cannot be oblivious of the fact that in this case four years have passed and all the evidence has already been led by both sides before the Commission. In the circumstances, we think that the Commission must itself proceed to hear and decide the complaint.

5. The appeal is allowed. The order under appeal is set aside. The complaint, being Original Petition No. 94 of 1993, is restored to the file of the National Consumer Disputes Redressal Commission, New Delhi, to be heard and decided according to law. Both parties shall be entitled to address concluding arguments to the Commission afresh.

6. No order as to costs.