

# SUPREME COURT OF INDIA

Dr. Dinesh Rathi

Vs.

Swastik Builders

(S.R. Babu and G.P. Mathur JJ.)

05.05.2003

## ORDER

1. Leave granted.
2. The appellant had filed Special Civil Suit No. 358/1992 in the Court of the Civil Judge, Senior Division, Nagpur on 13.4.1992 seeking for certain reliefs. During pendency of the Civil Suit, the appellant filed Original Petition No. 188/1995 before the National Consumer Disputes Redressal Commission on 8.11.1995. During the pendency of the dispute before the National Commission, the appellant withdrew the Civil Suit. Thereafter, the National Commission dismissed his petition on the basis of limitation as well as on the ground that he has a remedy under civil law, which he had availed of.
3. Inasmuch as he had already withdrawn the suit, that remedy was not available to him. In the circumstances he approached this Court challenging the order of the Commission but he withdrew the same and moved a petition for Review before the Commission. The Review Petition having been dismissed, the appellant is before us.
4. It is difficult to understand as to why the appellant should have pursued several parallel proceedings. However, in the interest of justice, it would be appropriate to direct revival of the civil suit filed by him being Special Civil Suit No. 358/1992 on the file of the Civil Judge, Senior Division, Nagpur. The said Suit shall stand restored to its original number and after notice be disposed of in accordance with law.
5. However, it is needless to say that it is open to the parties to raise all pleadings and claims as may be permissible to them. The appeal is disposed of accordingly.