

# SUPREME COURT OF INDIA

H.N. Shankara Shastry

Vs.

Assistant Director of Agriculture, Karnataka

C.A.No.2253 of 1999

(Shivraj V.Patil and D.M.Dharmadhikari JJ.)

06.05.2004

## JUDGMENT

### **Shivaraj V. Patil, J.**

1. The appellant approached the Consumer Disputes Redressal Forum (for short 'the District Forum by complaining that he purchased 10 bags of paddy seeds from the respondent @ 135 per bag for the purpose of sowing and transplanting the seedlings to raise paddy in 7 acres of his land. When he sowed the seeds in the nursery, they did not germinate properly. He made complaint to the respondent; the respondent deputed the Agricultural Extension Officer to inspect the land and to submit his report about the quality of the seeds supplied to the appellant; the said Officer having inspected the spot, reported that the germination was hardly upto 10 to 25%: having received the report, the respondent addressed a letter to the Marketing Officer, National Seed Corporation, Mysore, stating that on account of sub-standard paddy seeds sold to the appellant, the appellant had to leave 7 acres of his land hollow and uncultivated and that the National Seed Corporation was liable to make good the loss. The National Seed Corporation, in spite of the request of the, respondent, did not depute any technical expert to inspect the spot for assessment. According to the appellant, in the normal course, he would have received 50 quintals of paddy from 7 acres of his land; the value of the same would have been Rs. 15, 750/- calculated at the lowest rate prevailing at the relevant time. He, therefore, claimed a sum of Rs. 17, 100/- with consequential reliefs from the respondent. The only defence of the respondent was that the National Seed Corporation, which supplied the paddy seeds, was directly responsible for making good the loss and it should have been made party to the proceedings and that the respondent was not responsible to make good the loss. It was not disputed that the respondent had sold paddy seeds @ 135/- per bag to the appellant. The District Forum on admitted facts held that the respondent was a 'trader' in relation to the appellant. Both the parties filed respective affidavits before the District forum and the appellant, in addition produced two documents in support of his claim. The District Forum noticed that the statement made in the affidavit of the appellant, that he could not raise and harvest paddy in 7 acres of his land due to non-germination of the seeds purchased by him, was not denied by the respondent; the respondent had only pleaded his ignorance as to whether the appellant had to leave 7 acres of his land

uncultivated. Having considered the contentions of the parties and the material placed before it, the District Forum directed the respondent to pay a sum of Rs. 17,500/- to the appellant by way of refunding of the price of the paddy seeds and damages caused to him as a result of the transaction. A further direction was given to pay Rs. 100/- as cost to the appellant.

2. The respondent took up the matter in appeal before the Karnataka State Consumer Disputes Redressal Commission (for short 'the State commission'). The State Commission concurred with the findings recorded by the District Forum but modified the order of the District Forum directing the respondent to pay and refund a sum of Rs. 1,350/-, the price of the seeds, to the appellant with interest thereon at 18% per annum from the date of its purchase. The State Commission also awarded a sum of Rs. 1,000/- as compensation to the appellant. The reason for modifying the amount of compensation to be paid to the appellant is to be seen in paragraph 7 of the order of the State Commission which reads:-

"7. The germination of the paddy seeds in the nursery takes place within a period of 3-10 days after its sowing. Therefore, the complainant would be able to know whether it was a proper germination or not within a period of 10-12 days. When the complainant had come to know about that there was no proper germination, he would have purchased some other seeds and put it in the nursery and transplanted the same in his land, which he has not done. Simply because the complainant did not take crop in his land due to sub standard seeds, it cannot be said that it was due to any act on the part of the opposite party. The opposite party, of course is liable for refunding the value of the seeds to the complainant and also certain amount of compensation for sowing it in the nursery."

3. Aggrieved by and not satisfied with the order of the State Commission, the appellant filed a revision petition before the National Consumer Disputes Redressal Commission (for short 'the National Commission'). The said Commission summarily dismissed the revision petition observing that it did not find any illegality or jurisdictional error in the order passed, by the State Commission. Hence, this appeal.

4. The learned counsel for the parties in their arguments reiterated the submissions that were made before the District Forum and the State Commission.

5. In view of the admitted position and the facts as found both by District Forum as well as State Commission, it is unnecessary to refer to them again. The only point that needs to be examined is whether the State Commission was right and justified in reducing the amount of compensation for the reasons recorded in paragraph 7 extracted above. In our view, the State Commission committed a serious error in its approach in expecting the appellant to take steps to avoid loss to him even though admittedly the goods supplied by the respondent were defective. The approach of the State Commission was merely theoretical and not reasonable there being no supporting facts or pleadings in that regard. It may be pointed out that the respondent did not plead before the District Forum or the State Commission that the appellant by taking care or by making alternative arrangement could have saved himself from the loss. The State Commission was also not right in modifying the order of the District

Forum merely on the basis that the appellant could have been careful and could have cultivated 7 acres of his land by securing other seeds. It did not keep in mind that the nature of agricultural operation, sowing the seeds in the nursery for germination and transplanting them thereafter in the land depended entirely on the season and the timing required; delay of two weeks in putting the seeds or transplanting them may not be useful and many times it may not help raising paddy crop even if it is sown; may be yield would have been minimum and unviable. Be that as it may, neither there was a pleading nor there was evidence touching this aspect of the matter.

6. Under Section 14(1) of the *Consumer Protection Act, 1986* (for short 'the Act') if the District Forum is satisfied that the goods complained against suffer from any defect, it could grant reliefs which include return of the price of the paddy and also compensation to the consumer for any loss suffered. Granting of relief to the consumer does not depend upon whether he should have made alternative arrangement. In the present case, it was enough for the appellant to establish that the paddy seeds supplied by the respondent were defective.

7. In this regard, the District Forum and the State Commission have recorded concurrent findings of fact. The State Commission also has not kept in mind the very object of the Act, which was enacted to better protect the interest of the consumers. The Act is one of the benevolent pieces of legislation intended to protect a large body of consumers from exploitation. The provisions of the Act ought to be interpreted in a rational manner for achieving the objective set forth in the Act. The approach of the Forums has to be rational consistent with the purpose of the Act rather than technical. In *Secretary, Thirumurugan Cooperative Agricultural Credit Society vs. M. Lalitha (Dead) through LRs. and others*<sup>1</sup> this Court has expressed that 'Having due regard to th" scheme of the Act and purpose sought to be achieved to protect the interest of the consumers better, the provisions are to be interpreted broadly, positively and purposefully." This Court in *Lucknow Development Authority vs. M.K. Gupta*<sup>2</sup> has observed that "it appears appropriate to ascertain the purpose of the Act, the objective it seeks to achieve and the nature of social purpose it seeks to promote as it shall facilitate in comprehending the issue involved and assist in construing various provisions of the Act effectively. To begin with the preamble of the Act which can afford useful assistance to ascertain the legislative intention, it was enacted, 'to provide for the protection of the interest of consumers'. Use of the word 'protection' furnishes key to the minds of makers of the Act. Various definitions and provisions which elaborately attempt to achieve this objective have to be construed in this light without departing from the settled view that a preamble cannot control otherwise plain meaning of a provision.

“In fact that the law meets long felt necessity of protecting the common man from such wrongs for which the remedy under ordinary law for various reasons has become illusory. Various legislations and regulations permitting the State to intervene and protect interest of the consumers have become a haven for unscrupulous ones as the enforcement machinery either does not move or it moves ineffectively, inefficiently and for reasons, which are not necessary to be stated. The importance of the Act lies in promoting welfare of the society by enabling the consumer to participate directly in the market economy. It attempts to remove the helplessness of a consumer which he

faces against powerful, business, described as, 'a network of rackets' or a society in which, 'producers have secured power' to 'rob the rest' and the might of public bodies which are degenerating into storehouses of inaction where papers do not move from one desk to another as a matter of duty and responsibility but for extraneous consideration leaving the common man helpless, bewildered and shocked. The malady is becoming so rampant, widespread and deep that the society instead of bothering, complaining and fighting against it, is accepting it as part of life. The enactment in these unbelievable yet harsh realities appears to be a silver lining, which may in course of time succeed in checking the rot.'"

8. In view of what is stated above, we find it difficult to sustain the order of the State Commission as affirmed by the National Commission. Hence, the impugned order affirming the order of the State Commission is set aside and the order made by the District Forum is restored. The appeal is allowed accordingly. No costs.

<sup>1</sup>2003 CCC 394 (NS)

<sup>2</sup>1994(1) CCC 278 (NS)