

SUPREME COURT OF INDIA

Vyavasthapak C. Print

Vs.

Laxmi Agro Chemical

C.A.No.265 of 2009

(B.N. Agrawal and G.S. Singhvi JJ.)

16.01.2009

ORDER

1. Leave granted.

2. Heard learned counsel for the parties.

3. The District Consumer Forum, Jalgaon, allowed the complaint of the respondent and directed the appellants herein to pay Rs.3,07,500/- with nine per cent interest and cost of Rupees two thousand. The appeal preferred against that order was dismissed by the Maharashtra Consumer Disputes Redressal Commission [for short, `the State Commission'], and appellate order has been confirmed by the National Consumer Disputes Redressal Commission [for short, `the National Commission']. Hence, this appeal by special leave.

4. Learned counsel appearing on behalf of the appellants submitted that the complainant was not a "consumer" within the meaning of Section 2(1)(d) of the *Consumer Protection Act, 1986 (for short, `the Act')* and the complaint was barred by limitation, but without properly appreciating the arguments put forward on behalf of the appellants, the District Forum and State and National Commissions ruled in favour of the respondent. On the other hand, learned counsel appearing on behalf of the respondent submitted that he was a "consumer" within the meaning of Section 2 (1)(d) of the Act, especially in view of the explanation thereto as the machine was purchased by the complainant exclusively for earning livelihood by means of self- employment. He further submitted that the complaint was not barred by limitation and the District Forum did not commit any error by granting relief to the respondent.

5. A perusal of the record shows that both the parties had filed affidavits before the District Forum in support of their respective pleadings, but no evidence was produced on the issues whether the respondent is a "consumer" within the meaning of Section 2(1)(d) of the Act and whether the complaint was within limitation. In our view, having regard to the nature of controversy raised before it, the District Forum should have afforded opportunities to the

parties to lead evidence and as the matter has been decided without taking recourse to that procedure, the impugned orders are liable to be set aside.

6. Accordingly, the appeal is allowed, impugned order are set aside and the matter is remitted to the District Forum, Jalgaon, to decide the complaint afresh after giving opportunity to the parties to adduce evidence. It is needless to say that the question of limitation shall also be decided afresh by the District Forum.