

Haryana Urban Development Authority & Others

v.

Tej Refrigeration Industries Ltd

(Supreme Court Of India)

HON'BLE MR. JUSTICE G.S. SINGHVI HON'BLE MR. JUSTICE GOPALA
GOWDA

C. A No. 5852 of 2013 (Arising out of SLP(C) No. 14452 of 2013 | 16-07-2013

G.S. Singhvi & Gopala Gowda, JJ.

1. Leave granted.

2. The questions which arise for consideration in this appeal are whether District Consumer Disputes Redressal Forum, Jhajjar (for short, 'the District Forum') committed a jurisdictional error by entertaining and allowing the complaint filed by the Respondent ignoring the objection of limitation raised by the Appellants and whether Stale Consumer Disputes Redressal Commission, Union Territory, Chandigarh (for short, 'the State Commission') and the National Consumer Disputes Redressal Commission (for short, 'the National Commission') committed grave error by dismissing the appeal and the revision filed by the Appellants against the order of the District Forum.

3. The Respondent was allotted industrial plot No. 115, Phase I, Bahadurgarh subject to the terms and conditions embodied in allotment letter dated 8.2.1978. Due to the Respondent's failure to raise construction within the stipulated period, Estate Officer, Haryana Urban Development Authority, Bahadurgarh (Appellant No. 3) issued notices under various Sub-sections of Section 17 of the Haryana Urban Development Authority Act, 1977 and cancelled the allotment vide order dated 11.7.1995.

4. After almost six years of the cancellation of allotment, the Respondent filed a complaint under the Consumer Protection Act, 1986 (for short, 'the 1986 Act') and prayed for setting aside the order of cancellation and for issue of a direction

to Appellant No. 3 to restore the possession. In the written statement filed on behalf of the Appellants, a preliminary objection was taken to the maintainability of the complaint on the ground that the same was barred by time. The Appellants also pleaded that after cancellation of the Respondent's allotment, plot No. 115 was allotted to M/s. Janta Products Co. in March 1999, which had already started construction.

5. By an order dated 6.11.2001, the District Forum allowed the complaint albeit without deciding the issue of limitation, and directed the Appellants to hand over physical possession of the plot to the Respondent. The appeal and the revision filed by the Appellants was dismissed by the State Commission and the National Commission respectively.

6. While issuing notice of the special leave petition on 10.4.2013, this Court recorded a detailed order, the relevant portions of which are extracted below:

"One of the point which requires consideration in this special leave petition filed against order dated 03.09.2012 passed by the National Consumer Disputes Redressal Commission (for short, 'the National Commission') in Revision Petition No. 4336 of 2010 is whether the District Consumer Disputes Redressal Forum, Jhajjar (for short, 'the District Forum') had the jurisdiction to entertain the complaint filed after six years of accrual of cause of action and whether the District Forum, the State Consumer Disputes Redressal Commission (for short, 'the State Commission') and the National Commission committed serious error by not deciding the issue of limitation in the light of the provisions contained in Section 24A of the Consumer Protection Act, 1986.

Prima facie, we are satisfied that the District Forum should not have entertained the complaint filed by the Respondent which, as mentioned above, was filed after six years of the accrual of cause of action."

7. As per the office report, the notice has been duly served upon the Respondent but no one has appeared on its behalf.

8. We have heard Shri Govind Goyal, learned Counsel for the Appellants and perused the record.

9. The 1986 Act was enacted by Parliament in the backdrop of the fact that India has signed Consumer Protection Resolution No. 39 of 248 passed by the General Assembly of the United Nations. With a view to fulfil the objectives enshrined in the guidelines adopted by the General Assembly of the United Nations and keeping in view the proliferation of international trade and commerce and vast expansion of business and trade which resulted in availability of variety of consumer goods in the market, the Consumer Protection Bill was introduced in Parliament to provide for better protection of the interest of consumers. The salient features of the Bill were:

(a) the right to be protected against marketing of goods which are hazardous to life and property;

(b) the right to be informed about the quality, quantity, potency, purity, standard and price of goods to protect the consumer against unfair trade practices;

(c) the right to be assured, wherever possible, access to an authority of goods at competitive prices;

(d) the right to be heard and to be assured that consumers' interests will receive due consideration at appropriate forums;

(e) the right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers; and

(f) right to consumer education.

10. Section 3 of the 1986 Act declares that the provisions of the Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force. Section 9 provides for establishment of the Consumer Forums at the District, State and National level. Section 11 relates to jurisdiction of the District Forum. Section 12 prescribed the manner in which the complaint can be filed before the District Forum and the procedure required to be followed for entertaining the same. Once the complaint is admitted, the procedure prescribed under Section 13 is required to be followed by the District Forum. Section 24A, which was added to the 1986 Act by Act No. 62/2002 prescribes the period of limitation. For the sake of reference, Sections 12 and 24A of the Act, which have bearing on the decision of this appeal read as under:

"12. Manner in which complaint shall be made.--(1) A complaint in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum by-

(a) the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided;

(b) any recognised consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not;

(c) one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of, all consumers so interested; or

(d) the Central Government or the State Government, as the case may be, either in its individual capacity or as a representative of interests of the consumers in general.

(2) Every complaint filed under Sub-section (1) shall be accompanied with such amount of fee and payable in such manner as may be prescribed.

(3) On receipt of a complaint made under Sub-section (1), the District Forum may, by order, allow the complaint to be proceeded with or rejected: Provided that a complaint shall not be rejected under this section unless an opportunity of being heard has been given to the complainant:

Provided further that the admissibility of the complaint shall ordinarily be decided within twenty-one days from the date on which the complaint was received.

(4) Where a complaint is allowed to be proceeded with under Sub-section (3), the District Forum may proceed with the complaint in the manner provided under this Act:

Provided that where a complaint has been admitted by the District Forum, it shall not be transferred to any other court or tribunal or any authority set up by or under any other law for the time being in force.

Explanation. - For the purpose of this section "recognised consumer association" means any voluntary consumer association registered under the Companies Act, 1956 or any other law for the time being in force.

24A. Limitation period.- (1) The District Forum, the State Commission or the National Commission shall not admit a complaint unless it is filed within two years from the date on which the cause of action has arisen.

(2) Notwithstanding anything contained in Sub-section (1), a complaint may be entertained after the period specified in Sub-section (1), if the complainant satisfies the District Forum, the State Commission or the National Commission, as the case may be, that he had sufficient cause for not filing the complaint within such period:

Provided that no such complaint shall be entertained unless the National Commission, the State Commission or the District Forum, as the case may be, records its reasons for condoning such delay."

11. A reading of Sections 12 and 24A makes it clear that a complaint tiled after expiry of two years counted from the date of accrual of cause of action cannot be admitted by any Consumer Forum unless the complainant is able to show that he had sufficient cause for not filing the complaint within the prescribed period and the concerned forum records reasons for condoning the delay. The embargo contained in Section 24-A against admission of a complaint is unambiguous and if that section is read in conjunction with Section 12, which prescribes the procedure for entertaining the complaint, it becomes clear that before admitting a complaint and issuing process, the Consumer Forum must feel convinced that the same has been filed within the period of limitation or that the complainant has succeeded in showing sufficient cause for delayed filing of the complaint.

12. Unfortunately, most of the Consumer Forums in the country do not follow the provisions of Section 12 read with Section 24A and large number of complaints are entertained without considering the issue of limitation. This results in over burdening of the dockets of Consumer Forums and consequential delay in the disposal of other deserving cases.

13. In the present case, the District Forum not only entertained the complaint but granted relief to the Respondent without even adverting to the objection of limitation raised by the Appellants. The District Forum became totally oblivious of the fact that the complaint was filed after almost six years of the cancellation of allotment and no prayer was made for condonation of delay. In the written statement filed by them, the Appellants raised the objection of limitation but the District Forum ignored the same and allowed the complaint. The State Commission and the National Commission also overlooked the Appellants' plea that the complaint was barred by time and upheld the order passed by the District Forum for restoration of the plot to the Respondent.

14. In our view, non-consideration of the Appellants' plea of limitation by the three consumer forums has resulted in miscarriage of justice. The order passed by the District Forum without even advertng to the issue of limitation was ex-facie without jurisdiction and the State Commission and the National Commission committed serious error by dismissing the appeal and the revision filed against the order of the District Forum.

15. In the result, the appeal is allowed, the impugned order as also those passed by the District Forum and the State Commission are set aside and the complaint filed by the Respondent is dismissed as barred by time.