

NAVAL SOOD V. DLF RETAIL DEVELOPERS LTD.

1. NAVAL SOOD

.....Petitioner(s)

Versus

1. DLF RETAIL DEVELOPERS LTD.

.....Respondent(s)

Case No: REVISION PETITION NO. 1305 OF 2022

Date of Judgement: 11 Jan 2023

Judges:

HON'BLE MR. JUSTICE R.K. AGRAWAL, PRESIDENT

For the Petitioner : Ms.Shweta Yadav, Advocate

For the Respondent : Mr.Ritu Raj, Advocate

Facts:

The case involves Revision Petition No. 1305 of 2022 filed by Mr. Naval Sood against the order dated null passed by the State Commission Delhi in Appeal No. unknown. Originally, Mr. Sood had filed a consumer complaint (Case No. 938 of 2011) before the District Consumer Disputes Redressal Commission, New Delhi seeking relief. On 16.12.2019, the District Commission returned the complaint to Mr. Sood, holding that it did not have pecuniary jurisdiction since the value of goods/services and compensation claimed exceeded Rs. 20 lakhs. The District Commission relied on a 2017 judgement of the National Commission to arrive at this conclusion. Mr. Sood then approached the National Commission by way of the present Revision Petition.

Court's Opinions:

When the District Commission passed its order on 16.12.2019, the new Consumer Protection Act, 2019 had come into force. Under this Act, pecuniary jurisdiction is determined based on the value of consideration paid, not the total value claimed. At the time Mr. Sood approached the National Commission in 2022, its pecuniary jurisdiction was only over cases with consideration value exceeding Rs. 2 crores. Therefore, the complaint was not maintainable before the National Commission either. However, instead of returning the complaint, the District Commission should have transferred it to the National Commission to be tried as a complaint case itself. In the interests of justice, the National Commission decided to exercise its revisional jurisdiction under Section 58(1)(b) of the Consumer Protection Act, 2019.

National Commission's Order:

The order dated 16.12.2019 passed by the District Commission stands modified. The District Commission is directed to transfer the entire record of Complaint Case No. 938 of 2011 to the National Commission within one month. The Registry is directed to allot a fresh complaint number to this transferred case, while also mentioning the previous complaint number in brackets. The fresh complaint shall be listed on 05.04.2023 before the National Commission.

Arguments:

No specific arguments have been recorded in the order.

Sections & Cases Referred/Cited:

*Section 58(1)(b) of the Consumer Protection Act, 2019
(Revisional Jurisdiction)*

*Amrish Kumar Shukla & Ors Vs Ferrous Infrastructure Pvt Ltd
(2017 judgement of National Commission)*

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Court

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Full Text of Judgment:

1. Vide Order dated 07.10.2022, this Commission had treated the Complaint preferred by Mr. Naval Sood as Revision Petition under Section 58 (1) (b) of the Consumer Protection Act, 2019, which was filed pursuant to the Order dated 16.12.2019 passed by the District Consumer Disputes Redressal Commission, New Delhi, Vikas Bhawan, I.P. Estate, New Delhi (hereinafter referred to as 'the District Commission'), whereby the Complaint Case No.938 of 2011 was returned to the Complainant with liberty to approach the appropriate Adjudicating Authority as it was not maintainable before the District Commission as the value of goods and services and compensation claimed was more than Rupees Twenty Lakh and the jurisdiction was with this Commission. The District Commission relied upon the decision of a Three Member Bench of this Commission in the case of Ambrish Kumar Shukla & Ors. Vs. Ferrous Infrastructure Pvt. Ltd., I (2017) CPJ (NC), for coming to that conclusion. The Order was passed by the District Commission on 16.12.2019. The Consumer Protection Act, 1986 stood repealed and the new Consumer Protection Act, 2019 was in existence, which came into force on 20/24.07.2020, where the pecuniary jurisdiction is to be determined on the basis of the value of consideration paid and not on the value of goods and services and compensation claimed.

At that point of time, when the Petitioner preferred this Complaint before this Commission 09.09.2022, the pecuniary jurisdiction of this Commission is where the value of the goods or services paid as consideration exceeds Rupees Two Crores. Thus, the Complaint as such was not maintainable, as this Commission did not have the pecuniary jurisdiction. However, since the District Commission did not have the pecuniary jurisdiction it had directed that the Complaint be returned with liberty to the Complainant (Petitioner) to approach the appropriate Adjudicating Authority. It would have been much better, if instead of returning the Complaint, the District Commission would have transferred the entire Complaint along with Written Version, Rejoinder and Evidences,

if any, filed by the Respective Parties to this Commission to be tried as a Complaint Case itself.

In view of the foregoing discussion, I am of the considered view that in the facts and circumstances of this Case it would be appropriate and in the interest of justice that it is a fit case to exercise the Revisional jurisdiction under Section 58 (1) (b) of the Consumer Protection Act, 2019 and the Order dated 16.12.2019, passed by the District Commission be modified accordingly. I therefore, modify the Order dated 16.12.2019, passed by the District Commission and direct the District Commission to transfer the entire record of the Complaint Case No. 938 of 2011 along with Written Version, Rejoinder, Evidences filed, if any, by the respective Parties and another other Applications or documents, which had been filed before it by the respective Parties within a month, on a production of a certified copy of this Order before it, which the Petitioner (Complainant) shall file before it on or before 03.03.2023.

The Revision Petition is allowed and the Order passed by the District Commission is modified.

The Registry is directed to give a fresh Complaint number to the Complaint Case No.938 of 2011, received from the District Commission and in the bracket after the fresh Complaint number the earlier Complaint Case No.938 of 2011 be also mentioned. The Registry is directed to list the Complaint Case on 05.04.2023.