

**(2001) 04 NCDRC CK 0008**

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION**

**Case No:** None

B.DEY

APPELLANT

Vs

SARAI GUPTA

RESPONDENT

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**Date of Decision:** April 25, 2001

**Citation:** 2002 1 CPJ 383

**Hon'ble Judges:** S.C.Datta , S.Majumder J.

**Final Decision:** Revision dismissed

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**Judgement**

1. THIS revision application is directed against order dated 18.3.1998 refusing to summon some doctors to prove the case of the complainant. The Forum has, however, given liberty to the complainant to seek relief before the appropriate Civil Court, if so advised. Alternatively the complainant was asked to proceed with the hearing without examining such experts.

2. WHAT happened in this case is that the complainant filed a petition on 19.12.1997 with a prayer for issuing summons upon some expert doctors. The Forum declined to issue summons on the ground that examination of medical experts in support of the case is not permissible in a proceeding under the Consumer Protection Act. According to the Forum complicated questions including recording of evidence of experts are involved. Consequently the Forum declined the prayer with a direction to the complainant to approach the Civil Court for relief. It appears that in coming to the conclusion the Forum relied upon the case reported in AIR 1996 Supreme Court page 550. The Forum has also quoted the observation of the State Commission in a case reported in 1998 W.B.L.R. (Consumer Protection Act) at page 22. It appears that the Forum has properly applied the ratio on the decisions quoted above to the facts

of the present case in declining to issue summons to expert witness. In our view the order does not call for any interference and as such the present revision application is dismissed. The impugned order is hereby confirmed.

The Forum is directed to proceed with the further hearing of the case and shall try to dispose it of within a period of 6 months from the date of communication of this order. With this observation the revision petition is disposed of. Revision dismissed.