

(1999) 11 NCDRC CK 0009

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

Premier Automobiles Ltd.

APPELLANT

Vs

K.Rajendran

RESPONDENT

Date of Decision: Nov. 10, 1999

Citation: 2000 2 CPC 690 : 2000 3 CPJ 365

Hon'ble Judges: L.Manoharan , K.M.Latha J.

Final Decision: Order set aside subject to costs

Judgement

1. REVISION is by the opposite party in O.P. 514/98. The opposite party before the District Forum was set ex-parte and at a later stage he filed a petition for setting aside ex-parte alongwith his version. That petition was dismissed by the impugned order. The dismissal is challenged in this revision. Learned Counsel for the revision petitioner submits, since the opposite party is still pending, applying the principle in Order 9, Rule 7, C.P.C. this petition ought not have been dismissed on the grounds stated in the impugned order. He made reliance on the decision of Delhi High Court reported in AIR 1982 New Delhi 159, and also alternatively maintained that he is entitled to continue from the stage in which he entered appearance. Reliance was made by the learned Counsel on 1988 (2) KLT SN-44 in support of the said submission. On the other hand the learned Counsel for the respondent/complainant sought to support the order of the District Forum contending that no acceptable ground having been shown and the petition since was not filed within the period of limitation, dismissal order cannot be questioned. With due regard to the fact that the proceeding is still pending, applying the principle Order 9, Rule 7, a person who is set ex-parte in such circumstance is entitled to participate in the proceeding from the adjourned hearing date on such terms as the Court may fix, we consider that the prayer of the revision petitioner can be allowed on payment of costs.

2. IN the result the impugned order will stand set aside if the revision petitioner pays or deposits for payment to the respondent or his Counsel Rs. 500/- as costs within two weeks from this date, failing which the revision will stand dismissed; if the costs is paid as indicated above the impugned order will stand set aside; in that event the District Forum shall accept the version already filed and then proceed to dispose of the complaint in accordance with law. Order set aside subject to costs.