(2004) 12 NCDRC CK 0064

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

PADMA WATI	APPELLANT
Vs	
Tata Finance Limited	RESPONDENT

Date of Decision: Dec. 6, 2004

Citation: 2005 1 CPC 412 : 2005 2 CLT 349 : 2005 2 CPJ 31

Hon'ble Judges: K.K.Srivastava , MajGenS.P.Kapoor , Devinderjit Dhatt J.

Final Decision: Appeal dismissed

Judgement

1. IN this appeal filed against judgment and order dated 5.7.2004 passed by District Consumer Disputes Redressal Forum-II, U.T., Chandigarh (for short hereinafter to be referred as District Forum) in Complaint Case No 386 of 2002, Padma Wati v. Tata Finance Limited and Another, the sole point, which has been decided by the District Forum is about lack of jurisdiction to entertain the consumer complaint.

2. IT has been held in para 5 of the impugned order that the complainant/appellant was not a consumer under the provisions of Section 2(1)(d) of the Consumer Protection Act, 1986 (for short hereinafter to be referred as C.P. Act) because under the Hire Purchase Agreement, the appellant/complainant was only a bailee while the respondents/O.Ps. were the owners of the vehicle. The District Forum relied on the judgment of the Hon''ble National Consumer Disputes Redressal Commission, New Delhi (for short hereinafter to be referred as National Commission) passed in Revision Petition No. 367 of 1998, Tata Finance Limited v. Marjan Hossan and Others, decided on 12.2.2003.

On behalf of the appellant/complainant, reliance was placed on the judgment of Hon''ble Punjab and Haryana High Court, Chandigarh delivered in the case of Tarun Bhargava v. State of Haryana and Another, 2003 (1) Latest Judicial Reports 219, which, however, was a criminal revision petition in which quashing of First Information Report was prayed for and in that context, distinction was brought about between the contract of loan and the contract of hire purchase.

In the instant case, the District Forum held that the O.P. took up a case that they purchased the vehicle and delivered the same to the complainant and they were the owners in law. They even had a right to seizure of the vehicle under Clause 18(1)(b) of the Hire-Purchase Agreement. The agreement further stipulates that the ownership of the vehicle vests in the O.Ps. and it continues to vest in them. Under Clause 19 of the Hire-Purchase Agreement, the complainant had a right to purchase the vehicle and become its owner after payment of full consideration in the shape of all instalments. The District Forum thus upheld the contention of the respondents and recorded a finding that it was not a consumer complaint and the same was not maintainable before the District Forum. The District Forum accordingly dismissed the complaint.

3. THE District Forum has also recorded a finding in para 7 of the impugned order that the complainant/appellant has raised a plea of fraud on account of the contents of the agreement being not read over to her and she was made to sign the agreement on the assurance given by the officials of the O.Ps. THE District Forum, for this reason too, directed the appellant/complainant to seek redressal before a Civil Court of competent jurisdiction by way of filing an appropriate civil suit.

The learned Counsel for the appellant did not put in appearance before us on the date of hearing of the appeal i.e., 30.11.2004. Mr. D.K. Singal, Advocate appeared on behalf of the respondents. We have carefully perused the impugned judgment and order and with the assistance of the learned Counsel for the respondent Mr. D.K. Singal, Advocate, perused the material placed on record and also gone through the law laid down by the Hon''ble National Commission in the case of Tata Finance Limited v. Marjan Hossan and Others (supra). The Hon''ble National Commission laid down the law as under:

"On the point of the complainant being a consumer, we see that as per Clause 6 of the conditions attached to the agreement, the hirer (in this the complainant) held the vehicle as a bailee of the owners, and was not to have any proprietary right or interest as purchaser in view of this, he remained in the eyes of law what the agreement stated a hirer of the truck and not a purchaser of truck since he was not a purchaser of the truck as per law on the subject. It cannot be said that the complainant had hired the ''services'' of the petitioner to fall within the purview of ''consumer'' as defined in the Act."

4. IN view of the foregoing discussion and in view of the law settled by the Hon''ble National Commission in the case of Tata Finance Limited v. Marjan Hossan and Others (supra), the impugned judgment and order does not suffer from any infirmity. The appeal lacks merit and is dismissed leaving the parties to bear their own costs. Copies of this order be sent to the parties free of charge. Appeal dismissed.