

## Friend Agro Industries Vs Subeg Singh

**Court:** NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

**Date of Decision:** Feb. 28, 2011

**Citation:** 2011 0 NCDRC 108 : 2011 2 CPJ 134

**Hon'ble Judges:** Suresh Chandra J.

**Final Decision:** Revision petition dismiss

### Judgement

1. IN this case, on a complaint filed by the respondent, the District Forum vide its order dated 30.01.07 accepted the complaint and directed the

petitioner / OP to refund the amount of Rs.1,34,000/- on account of the cost of reaper to the complainant with interest @10% p.a. from the date

of filing of complaint alongwith cost of proceedings amounting to Rs.1,000/- and the petitioner /OP was granted liberty to collect the reaper from

the complainant. Aggrieved by the order of the District Forum, the petitioner herein, challenged the same before the State Commission by filing an

Appeal No. 1042 / 2010 before the State Commission. The State Commission having noticed that there has been a delay of 1237 days in filing the

appeal, considered the application filed by the petitioner for condonation of delay. While rejecting this application, the State Commission observed

that in this case the appellant / petitioner has acted in a most lethargic manner which is unwarranted and uncalled for and has also failed to show

any sufficient cause to condone the delay in question. The State Commission also did not find any merit in the appeal and dismissed the same in

limine on the ground of limitation.

2. WE have heard learned counsel for the petitioner. In regard to delay in filing the appeal before the State Commission, the counsel has relied on

the ratio of the judgement of Apex Court in the case of Collector, Land Acquisition, Anantnag and Another Vs. Mst. Katiji and Others [AIR 1987

SC 1353]. WE have also perused the application of the petitioner filed before the State Commission requesting for condonation of delay of 1237

days. The petitioner is a registered partnership firm known as M/s. Friend Agro Industries and while explaining the inordinate delay of about 4

years in filing the appeal, it is stated by the petitioner before the State Commission that even though the complaint was decided by the District

Forum on 30.01.2007, the petitioner was not aware about the fate of the case because the petitioner was neither informed about the decision by

its counsel nor a copy of the order was sent by the District Forum to it. The petitioner came to know about the decision of the District Forum only

in the second week of July 2010 when some Police Official reached the house of the petitioner in his absence and thereafter he approached the

counsel and filed the appeal. The reasons given by the petitioner justifying the delay of about 4 years are not convincing at all and we are of the

considered opinion that the State Commission rightly rejected the application of the petitioner in condonation of this inordinate delay. As regards

the merits, we have glanced through the order of the District Forum passed on appraisal of issues and the evidence adduced by the parties. While

accepting the complaint, the District Forum has held that the OP, petitioner herein, has failed to remove the defects in reaper or to replace the

same, which caused considerable loss and deficiency in service to the complainant. WE do not find any reason to differ with this finding of the

District Forum which has been looked into by the State Commission as well. WE are quite conscious of the principles laid down by the Apex

Court through their celebrated judgement in the case of Collector, Land Acquisition, Anantnag & Anr. Vs. Mst. Katiji and Ors. (supra). However,

while applying the same to the facts and circumstances of the present case, we do not find any scope justifying our interference with the impugned

order. WE, therefore, dismiss the revision petition at the threshold with no order as to costs.