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H.N. SHANKARA SHASTRY

v.

THE ASSTT. DIRECTOR OF AGRICULTURE, KARNATAKA

MAY 6, 2004

B

[SHIVARAJ V. PATIL AND D.M. DHARMADHIKARI, JJ.]

Consumer Protection Act, 1986; Section 14(1) :

C

Consumer filed a complaint against seller for selling sub-standard quality of seeds which has resulted in loss/damage to him—District Forum directed the seller to refund price of the seeds and also damages—State Commission modified the order directing the seller to refund the actual price of the seeds with interest thereon—Revision Petition dismissed by National Commission—On appeal, Held : since object of enactment of the

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Act was to better protect the interest of the consumer, provision of the Act ought to be interpreted accordingly in a rational manner to realize the objective—Since the complainant had established that seeds so supplied by the seller were defective, State Commission committed an error by modifying the well-reasoned order of the District Forum deleting therefrom

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the compensation towards damages on ground that the complainant did not take appropriate steps to avoid the loss without any facts/pleading—Hence, order of the State Commission/National Commission set aside and that of the District Forum restored.

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Complainant-consumer purchased paddy seeds from the respondent-State for the purpose of sowing and transplanting the seeding to raise paddy in the land. However, the seeds did not germinate properly. He made a complaint to the respondent, who deputed an Officer to inspect the land and submit a report. The Officer reported that the germination was hardly 10 to 20 percent. Respondent

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in turn informed the National Seeds Corporation, the supplier of the seeds, about loss suffered by the consumer on account of supply of sub-standard quality seeds and that the National Seeds Corporation was liable to make good the loss suffered by the consumer. The National Seeds Corporation did not respond. The consumer filed a complaint

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against the seller under the provisions of the Consumer Protection Act

claiming refund of price and also compensation. The District Forum directed the respondents to refund the price of the seeds and also certain amount as compensation. On appeal, State Commission modified the order directing the respondent to refund the price of the seeds with interest thereon. It, however, deleted the amount of the compensation on the ground that the consumer did not take appropriate steps to avoid such loss. The consumer filed a Revision Petition which was dismissed by the National Commission. Hence the present appeal.

Allowing the appeal, the Court

HELD : 1.1. The State Commission committed a serious error in its approach in expecting the appellant to take steps to avoid loss to him even though the goods supplied by the respondent were defective. The approach of the State Commission was merely theoretical and not reasonable, there being no supporting facts or pleadings in that regard. [411-B-C]

1.2. Under Section 14(1) of the Consumer Protection Act, 1986, if the District Forum is satisfied that the goods complained against suffer from any defect, it could grant reliefs which include return of the price of goods and also compensation to the consumer for any loss suffered. Granting of relief to the consumer does not depend upon whether he should have made alternative arrangement. In the present case, it was enough for the appellant to establish that the paddy seeds supplied by the respondent were defective. [411-F-G]

1.3. The State Commission has not kept in mind the very object of the Act which was enacted to better protect the interest to the consumers. The Act is one of the benevolent pieces of legislation intended to protect a large body of consumers from exploitation. The provisions of the Act ought to be interpreted in a rational manner for achieving the objective set forth in the Act. [411-H; 412-A]

Secretary, Thirumurugan, Cooperative Agricultural Credit Society v. M. Lalitha (Dead) through L.Rs. & Ors., [2004] 1 SCC 305 and Lucknow Development Authority v. M.K. Gupta, [1994] 1 SCC 243, relied on.

A 1.4. The preamble of the Act can afford useful assistance to ascertain the legislative intention. The Consumer Protection Act was enacted 'to provide for the protection of the interest of consumers'. Use of the word 'protection' furnishes key to the minds of makers of the Act. Various definitions and provisions which elaborately attempt to achieve this objective have to be construed in this light without departing from the settled view that a preamble cannot control the otherwise plain meaning of a provision. [412-D-E]

C 1.5. The importance of the Act lies in promoting welfare of the society by enabling the consumer to participate directly in the market economy. It attempts to remove the helplessness of a consumer which he faces against powerful, business, described as 'a network of rackets' or a society in which 'producers have secured power' to 'rob the rest' and the might of public bodies which are degenerating into storehouses of inaction papers do not move from one desk to another as a matter of duty and responsibility but for extraneous consideration leaving the common man helpless, bewildered and shocked. The malady is becoming so rampant, widespread and deep that the society instead of bothering, complaining and fighting against it, is accepting it as part of life. Under the circumstances, the order of the State Commission, as affirmed by the National Commission, could not be sustained. Hence, the order made by the District Forum is restored. [412-F-G-H; 413-A, B]

F CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2253 of 1999.

From the Judgment and Order dated 1.7.98 of the National Consumer Disputes Redressal Commission, New Delhi in R.P. No. 1321 of 1996.

G P.R. Ramasesh for the Appellant.

Malika Arjun Reddy, S.R. Hegde and Anil K. Mishra for the Respondent.

H The Judgment of the Court was delivered by

SHIVARAJ V. PATIL, J. : The appellant approached the Consumer Disputes Redressal Forum (for short 'the District Forum') by complaining that he purchased 10 bags of paddy seeds from the respondent @ 135 per bag for the purpose of sowing and transplanting the seedlings to raise paddy in 7 acres of his land. When he sowed the seeds in the nursery, they did not germinate properly. He made complaint to the respondent; the respondent/deputed the Agricultural Extension Officer to inspect the land and to submit his report about the quality of the seeds supplied to the appellant; the said Officer having inspected the spot, reported that the germination was hardly upto 10 to 20%: having received the report, the respondent addressed a letter to the Marketing Officer, National Seed Corporation, Mysore, stating that on account of sub-standard paddy seeds sold to the appellant, the appellant had to leave 7 acres of his land fallow and uncultivated and that the National Seed Corporation was liable to make good the loss. The National Seed Corporation, in spite of the request of the respondent, did not depute any technical expert to inspect the spot for assessment. According to the appellant, in the normal course, he would have received 50 quintals of paddy from 7 acres of his land, the value of the same would have been Rs. 15,750 calculated at the lowest rate prevailing at the relevant time. He, therefore, claimed a sum of Rs. 17,100 with consequential reliefs from the respondent. The only defence of the respondent was that the National Seed Corporation, which supplied the paddy seeds, was directly responsible for making good the loss and it should have been made party to the proceedings and that the respondent was not responsible to make good the loss. It was not disputed that the respondent had sold paddy seeds @ 135 per bag to the appellant. The District Forum on admitted facts held that the respondent was a "trader" in relation to the appellant. Both the parties filed respective affidavits before the District forum and the appellant, in addition, produced two documents in support of his claim. The District Forum noticed that the statement made in the affidavit of the appellant, that he could not raise and harvest paddy in 7 acres of his land due to non-germination of the seeds purchased by him, was not denied by the respondent; the respondent had only pleaded his ignorance as to whether the appellant had to leave 7 acres of his land uncultivated. Having considered the contentions of the parties and the material placed before it, the District Forum directed the respondent to pay a sum of Rs. 17,500 to the appellant by way of refunding of the

A price of the paddy seeds and damages caused to him as a result of the transaction. A further direction was given to pay Rs. 100 as cost to the appellant.

The respondent took up the matter in appeal before the Karnataka State Consumer Disputes Redressal Commission (for short 'the State Commission'). The State commission concurred with the findings recorded by the District Forum but modified the order of the District Forum directing the respondent to pay and refund a sum of Rs. 1,350, the price of the seeds, to the appellant with interest thereon at 18% per annum from the date of its purchase. The State Commission also awarded a sum of Rs. 1,000 as compensation to the appellant. The reason for modifying the amount of compensation to be paid to the appellant is to be seen in paragraph 7 of the order of the State Commission which reads :

“7. The germination of the paddy seeds in the nursery takes place within a period of 8-10 days after its sowing. Therefore, the complainant would be able to know whether it was a proper germination or not within a period of 10-12 days. When the complainant had come to know about that there was no proper germination, he would have purchased some other seeds and put it in the nursery and transplanted the same in his land, which he has not done. Simply because the complainant did not take crop in his land due to sub-standard seeds, it cannot be said that it was due to any act on the part of the opposite party. The opposite party, of course is liable for refunding the value of the seeds to the complainant and also certain amount of compensation for sowing it in the nursery.”

Aggrieved by and not satisfied with the order of the State Commission, the appellant filed a revision petition before the National Consumer Disputes Redressal Commission (for short 'the National Commission'). The said Commission summarily dismissed the revision petition observing that it did not find any illegality or jurisdictional error in the order passed by the State Commission. Hence, this appeal.

The learned counsel for the parties in their arguments reiterated the submissions that were made before the District Forum and the State

Commission.

In view of the admitted position and the facts as found both by District Forum as well as State Commission, it is unnecessary to refer to them again. The only point that needs to be examined is whether the State Commission was right and justified in reducing the amount of compensation for the reasons recorded in paragraph 7 extracted above. In our view, the State Commission committed a serious error in its approach in expecting the appellant to take steps to avoid loss to him even though admittedly the goods supplied by the respondent were defective. The approach of the State Commission was merely theoretical and not reasonable there being no supporting facts or pleadings in that regard. It may be pointed out that the respondent did not plead before the District Forum or the State Commission that the appellant by taking care or by making alternative arrangement could have saved himself from the loss. The State Commission was also not right in modifying the order of the District Forum merely on the basis that the appellant could have been careful and could have cultivated 7 acres of his land by securing other seeds. It did not keep in mind that the nature of agricultural operation, sowing the seeds in the nursery for germination and transplanting them thereafter in the land depended entirely on the season and the timing required; delay of two weeks in putting the seeds or transplanting them may not be useful and many times it may not help raising paddy crop even if it is sown; may be yield would have been minimum and unviable. Be that as it may, neither there was a pleading nor there was evidence touching this aspect of the matter.

Under Section 14(1) of the Consumer Protection Act, 1986 (for short 'the Act'), if the District Forum is satisfied that the goods complained against suffer from any defect, it could grant reliefs which include return of the price of the paddy and also compensation to the consumer for any loss suffered. Granting of relief to the consumer does not depend upon whether he should have made alternative arrangement. In the present case, it was enough for the appellant to establish that the paddy seeds supplied by the respondent were defective.

In this regard, the District Forum and the State Commission have recorded concurrent findings of fact. The State Commission also has not kept in mind the very object of the Act which was enacted to better protect

A the interest of the consumers. The Act is one of the benevolent pieces of legislation intended to protect a large body of consumers from exploitation. The provisions of the Act ought to be interpreted in a rational manner for achieving the objective set forth in the Act. The approach of the Forums has to be rational consistent with the purpose of the Act rather than technical. In *Secretary, Thirumurugan Cooperative Agricultural Credit Society v. M. Lalitha (Dead) through LRs. & Ors.*, [2004] 1 SCC 305, this Court has expressed that "Having due regard to the scheme of the Act and purpose sought to be achieved to protect the interest of the consumers better, the provisions are to be interpreted broadly, positively and purposefully." This Court in *Lucknow Development Authority v. M.K. Gupta*, [1994] 1 SCC 243 has observed that "it appears appropriate to ascertain the purpose of the Act, the objective it seeks to achieve and the nature of social purpose it seeks to promote as it shall facilitate in comprehending the issue involved and assist in construing various provisions of the Act effectively. To begin with the preamble of the Act, which can afford useful assistance to ascertain the legislative intention, it was enacted, 'to provide for the protection of the interest of consumers'. Use of the word 'protection' furnishes key to the minds of makers of the act. Various definitions and provisions which elaborately attempt to achieve this objective have to be construed in this light without departing from the settled view that a preamble cannot control otherwise plain meaning of a provision. In fact the law meets long felt necessity of protecting the common man from such wrongs for which the remedy under ordinary law for various reasons has become illusory. Various legislations and regulations permitting the State to intervene and protect interest of the consumers have become a haven for unscrupulous ones as the enforcement machinery either does not move or it moves ineffectively, inefficiently and for reasons which are not necessary to be stated. The importance of the Act lies in promoting welfare of the society by enabling the consumer to participate directly in the market economy. It attempts to remove the helplessness of a consumer which he faces against powerful, business, described as, 'a network of rackets' or a society in which, 'producers have secured power' to 'rob the rest' and the might of public bodies which are degenerating into storehouses of inaction where papers do not move from one desk to another as a matter of duty and responsibility but for extraneous consideration leaving the common man helpless, bewildered and shocked. The malady is becoming so rampant, widespread and deep that the society instead of

bothering, complaining and fighting against it, is accepting it as part of life. A
The enactment in these unbelievable yet harsh realities appears to be a
silver lining, which may in course of time succeed in checking the rot.”

In view of what is stated above, we find it difficult to sustain the other
of the State Commission as affirmed by the National Commission. Hence, B
the impugned order affirming the order of the State Commission is set aside
and the order made by the District Forum is restored. The appeal is allowed
accordingly. No costs.

S.K.S.

Appeal allowed.