

PROPRIETOR, M/S. JABALPUR TRACTORS

A

v.

SEDMAL JAINARAIN AND ANR.

OCTOBER 30, 1995

[K. RAMASWAMY AND B.L. HANSARIA JJ.]

B

Consumer Protection Act, 1985 :

Consumer disputes redressal forum—Jurisdiction of—Claim for garage charges—Suit pending before competent Civil Court—Order of National Consumer Dispute Redressal Commission directing to hand over possession of car to respondent—Held, not justified.

C

The State Consumer Forum, in respect of a claim for garage charges, held that it could not consider the claim as the matter was already pending and was sub-judice before the competent Civil Court. However, the National Consumer Disputes Redressal Forum directed to hand over possession of the car to the respondent. Allowing the appeal of the proprietor of the Garage, this Court

D

HELD : The Consumer Protection Act, 1985 is not in derogation of any other law. In that view of the matter, the National Consumer Disputes Redressal Commission was not justified in directing to hand over possession of the car to the respondent. [562-B]

E

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 9928 of 1995.

F

From the Judgment and Order dated 18.2.93 of the National Consumer District Redressal Commission, New Delhi in F.A. No. 239 of 1991.

R. Mohan and V.G. Pragasam for the Appellant.

B.K. Satija and Y.P. Dhingra for the Respondent No. 1.

G

Vishnu Mehra and K.M.K. Nair for the Respondent No. 2.

The following Order of the Court was delivered :

Leave granted.

H

- A With regard to the claim for Garage charges, C.S. No. 49-B/1990 on the file of the IIIrd Additional Judge to the Court of District Judge, Jabalpur is pending disposal. The State Consumer Forum had also noticed it in paragraph 26 of its order and concluded that the amount claimed by M/s. Jabalpur Tractors as Garage charges is Rs. 18,000 and this cannot be considered as the matter is already pending and is sub judice before the
- B competent Civil Court. The Consumer Protection Act is not in derogation of any other law. In that view of the matter, the National Consumer Disputes Redressal Commission, in the impugned order, was not justified in directing to hand over possession of the car to the respondent.
- C The appeal is accordingly allowed and the order of the National Forum in First Appeal No.239/1991 dated February 18, 1993 in so far as the Garage charges are concerned is set aside. No costs.

R.P.

Appeal allowed.