

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
HARYANA, PANCHKULA**

First Appeal No.1267 of 2018

Date of Institution:20.11.2018

Date of final Hearing:17.07.2024

Date of Pronouncement:24.07.2024

ADAMA India Pvt. Tamar Venkaiah Nagar, Bellary Chowasta Road Karnoll Andhra Pradesh.

...Appellant

Versus

1. Jitender S/o Samunder Singh R/o Singhpura also at Village Chuliyana District Rohtak.

2. Haridass Khad Beej Bhandar through its Manager near Nilikothi Purana Bus Adda, Hissar Road, Rohtak.

...Respondents

CORAM: Hon'ble Mr. Justice T.P.S Mann, President.

Mr.S.P.Sood, Judicial Member

Mrs. Manjula, Member.

Present:- Shri Rohit Goswami, counsel for the appellant.

Shri Sandeep Bhardwaj, counsel for respondent No.1.

Service of respondent No.2 already dispensed with.

ORDER

T.P.S. MANN.J.

Delay of 18 days in filing the appeal is condoned for the reasons stated in the application for condonation of delay.

2. Opposite Party-Appellant-ADAMA, has filed the instant appeal under Section 15 of the Consumer Protection Act, 1986 for challenging the order dated 28.09.2018 passed by learned District Consumer

Disputes Redressal Commission, Rohtak whereby the complaint filed by the complainant-respondent No.1- Jitender was allowed with direction to the OPs to pay Rs.72,850/- on account of loss of crop alongwith interest @ 9% p.a. from the date of filing of the present complaint i.e.17.10.2016 till its realization. Direction was also issued to pay compensation and litigation expenses to the tune of Rs.5000/- to the complainant.

3. According to the complainant, he purchased pesticide from the opposite party (OP) No.2 vide bill No.511527 dated 30.06.2016 for using the same on his rented field at village Chuliyana for the crop of Sugar cane and cotton. The above mentioned pesticides/goods i.e. Tamar and 2, 4 D of respondents in spite of covering the problem and giving the growth rather damaged the sugar cane crop of complainant badly. He reported the matter to the OPs as well as to the Deputy director of Agriculture for Area Rohtak, who vide serial No.SPL-1 dated 17.08.2016 investigated the spot/field and accordingly the office of Deputy Director reported the loss upto 70 to 80% on dated 17.08.2016. He requested the OPs to pay loss i.e. only due to use of pesticides, which were defective one and OPs were legally bound to cover the loss of complainant. With above said allegations, the complainant prayed for compensation to the tune of Rs.1,00,000/- for damage in the field, Rs.50,000/- for compensation for mental harassment, pain and agony and Rs.15,000/- for litigation expenses. As the aforementioned act of the opposite parties amounted to deficiency in service, the complainant filed the instant complaint.

4. On the other hand, the opposite parties filed written statement. In their written statement, some preliminary objections about complaint is false and frivolous; lack of jurisdiction; want of locus standi; accruing cause of action; suppression of material facts and complaint is bad for non-joinder and misjoinder of necessary parties have raised and requested to dismiss the complaint.

On merits, it was denied that complainant purchased pesticide from OP No.2 and used the same in his field. It was also wrong that above mentioned pesticide/goods i.e. Tamar and 2, 4 D of OP in spite of covering the problem or that giving the growth rather damaged the sugarcane crop of the complainant badly.

It was submitted that answering OP No.2/Hari Dass Khad Beej Bhandar sold the product Tamar Batch No.TR606016 with seal intact and same was purchased by ADAMA India Pvt. Ltd./OP No.1 vide invoice No.241044042 dated 18.06.2016. OP No.2 sold the aforesaid product only as per demand of complainant. OP No.2/Hari Dass Khad Beej Bhandar is authorized dealer of OP No.1/ADAMA India Pvt. Ltd. (manufacturer). OPs sold bulk quantity of product to the various distributors/dealers including OP No.2 but no complaint from any corner has ever been received till date. The product Tamar was manufactured by M/s Adama India Pvt Ltd, a company of great repute and company was quality conscious in all respects. OP No.1 was a listed company manufacturing almost 80 types of products, which were being used by the farmers at large being the product of their choice in India as well as abroad also. The manufacturing plant of OP No.1 was an ultra modern plant, in which, all the products are being manufactured under strict vigilance and with automatic plant. The batch which has been mentioned in the complaint has also been supplied in the different parts of Haryana and in this batch also not a single complaint has been received from farmers or dealers and distributors. It is submitted that neither any notice was sent to answering OPs from office of Deputy Director Agriculture, Rohtak nor answering OPs were never asked to join the official of the department of agriculture. As such, there was no deficiency in service on the part of the opposite parties and, accordingly, prayer made for dismissal of the complaint.

5. The arguments have been advanced by Sh.Rohit Goswami, the learned counsel for the appelland and Sh.Sandeep Bhardwaj, the learned counsel for the respondent No.1. With their kind assistance the entire records as well as the original record of the District Commission including whatever the evidence has been led on behalf of parties has also been properly perused and examined.

6. Learned counsel for the appelland vehemently argued that at the time of inspection, the representative of the manufacturer or the dealer was not associated with the team and the pesticides were not properly sprayed by the complainant. As such, the appelland is not liable to pay the compensation. Accordingly, the impugned order be set aside and appeal be allowed.

7. Learned counsel for the complainant-respondent No.1 vehemently argued that he purchased pesticides from the OPs for the crop of sugar cane and cotton, but, due to inferior quality of pesticides, the crop of the complainant was badly damaged and he suffered loss. Moreover, perusal of Ex.C-1, found that there was about 70-80% loss of crops of sugarcane in one acre of land due to spray of alleged pesticide purchased from the OPs and as such, the appeal be dismissed.

8. As per the matrix of the facts of the case, it is not in dispute that complainant purchased several pesticides from Haridass Khad Beej Bhandar, Rohtak for Rs.2060/- vide receipt No.11537 dated 30.06.2016 (Ex.C-2). It is also not disputed that OP No.2/Hari Dass Khad Beej Bhandar is authorized dealer of manufacturer-OP No.1/ADAMA India Pvt. Ltd. It is also not disputed that batch which has been mentioned in the complaint has also been supplied in the different parts of Haryana. It is also not disputed that the complainant used the above said pesticides in his field, as per instructions of the shopkeeper. The inspection was carried out after due notice to representative of the O.Ps. As per Ex.C-1, complainant- Jitender has suffered loss of 70-80% to his crops of sugarcane in one acre of land, due to spray of alleged pesticide purchased from the OPs. When pesticides were also examined by the team of the experts, it was found that complainant suffered loss of 70-80% to his crops of sugarcane in one acre of land due to phytotoxicity effect of medicine (weedicide). The learned District Consumer Commission has rightly allowed the complaint of the complainant. The State Commission finds no reason or ground to interfere with the order of learned District Consumer Commission. Hence the appeal being devoid of merit stand dismissed.

9. Statutory amount of Rs.25,000/- was deposited by appellant at the time of filing of this appeal. This amount is now ordered to be refunded to complainant-respondent No.1-Jitender against proper receipt, identification and verification as per rules and registry of this Commission is accordingly directed.

10.

11. A copy of this judgment be provided to all the parties free of cost as mandated by the Consumer Protection Act, 1986/2019. The judgment be uploaded forthwith on the website of the Commission for perusal of the parties.

12. File be consigned to record room.

24th July, 2024

Manjula

S.P.Sood

T.P. S. Mann

Member

Judicial Member

President

S.K

(Pvt. Secy.)