

AFR

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
UTTAR PRADESH, LUCKNOW.

APPEAL NO.1930 OF 2010

(Against the judgment/order dated 7.9.2010 in Execution
Case No.1/10 of the District Consumer Forum, Unnao)

Miza Gram Udhdyog Sansthan ...Appellant
Versus
Chief Executive Officer, U.P. Khadi
& Village Board and anotherRespondents

BEFORE:-

HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT.
HON'BLE MR. RAMPAL SINGH, MEMBER.

For the Appellant : Mr. Anil Kumar Misra, Advocate.

For the Respondent : None.

Dated : 14.1.2011

JUDGMENT

HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT (ORAL)

Heard Mr. Anil Kumar Misra, learned counsel for the appellant and perused the impugned order whereby the appellant's prayer for implementation of the judgment dated 9.12.2005 was rejected on the ground that the Chief Executive Officer of Khadi and Gram Udyog Board could not be punished as warrant cannot be issued in the absence of an individual person. In our considered opinion the view followed by the District Consumer Forum is not in consonance with the provisions of Section 27 of the Consumer Protection Act which provides that where a trader or a person against whom the complaint is made [or the complainant] fails or omits to comply with any order made by the District Consumer Forum, the State Commission or the National Commission, as the case may be, such trader or person [or complainant] shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years, or with fine which shall not be less than two thousands rupees but which may extend to ten thousands rupees, or with both.

It is noteworthy that this provision of punishment is in addition to the powers of the District Consumer Forum as envisaged under Section 25 of the Consumer Protection Act whereunder a property of the

Bagh

Q

(2)

judgment-debtor may be attached and sold. The sale proceeds of such property may be utilised for satisfaction of the judgment. No doubt, the Chief Executive Officer in the absence of his personal individuality cannot be punished but if we look into the execution application of the appellant we find that there is a specific prayer for attachment of the properties of the opposite-parties/judgment-debtors and for recovery of the executant's money out of the sale proceeds thereof and also in the alternative punishment of Sri Kanchan Aron, who is the Chief Executive Officer of the U.P. Khadi and Gram Udyog Board under Section 27 of the Act. In our considered opinion the District Consumer Forum below has committed a grievous error by rejecting the execution application and expressing helplessness on its part. In rejection of the execution petition the District Consumer Forum perhaps lost sight of the very concept of justice that a judgment of a court/forum can never be rendered to be infructuous rather its implementation lies in the sanctity of the power of the court/forum. In other words, it may be observed that a court/forum is never supposed to pass a judgment which cannot be executed. We, therefore, hold that the judgment in Complaint Case No. 251 of 2001 is legally executable by taking recourse to the provisions of Section 25 and 27 of the Act as indicated above.

In the result, this appeal succeeds and is hereby allowed. The impugned judgment dated 7.9.2010 is quashed and the execution petition is restored to its original number to be decided by the Forum below in accordance with the provisions of law as referred to above.


(JUSTICE BHANWAR SINGH)

PRESIDENT


(RAMPAL SINGH)
MEMBER

Jafri