

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
UTTAR PRADESH, LUCKNOW.

APPEAL NO.951 OF 1994

(Against the judgment/order dated 30.3.1994 in Complaint Case
No.196/93 of the District Consumer Forum, Bahraich)

M/s Borosil Glass Works Ltd. & another ...Appellants
Versus
Sri Satguru Prasad ShuklaRespondent

BEFORE:-

HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT.

HON'BLE MR. SYED ALI AZHAR RIZVI, MEMBER.

For the Appellants : Mr.M.H. Khan, Advocate.

For the Respondent : None.

Dated : 15.11.2010

JUDGMENT

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

The case called out. Mr. M.H. Khan, learned counsel for the appellants is present. However, none responds for the respondent/complainant despite notice having been sent to him.

The cause-list of date has been shown on the Internet also.

Since it is an old appeal of the year 1994, we proceed to decide it on merit.

A very short question is required to be answered by us and it is to the effect as to whether the use of the oval casserole purchased by the respondent was in accordance with the directions contained in the literature handed over alongwith the casserole in question ?

According to the complainant the Borosil casserole he has purchased for a sum of Rs.220.00 had shattered into pieces when it was put on a Chulha for baking purpose. He pleaded that there was a manufacturing defect in the oval casserole and, thus, he was entitled to claim of Rs.1,573.00 as the damages. The Borosil Company pleaded in its written statement that the oval casserole purchased by the respondent could be used in oven only and not by putting it directly on Chulha.

The District Consumer Forum after having scrutinized the pleadings of the parties, recorded a finding that Chulha is also an oven in common parlance and, thus, the use of casserole over a Chulha was not

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an incorrect use but in consonance with the directions of the Company.

We find it extremely difficult to subscribe to the interpretation of the District Consumer Forum. Chulha, as is commonly used, is in the shape of upside down letter "∩" in which the heat^{by} firewood is directly applied to the utensil from underneath. With the change of times the shape of Chulha also changed and with gas being explored as fire-cooking medium, now an LPG Chulha is used. However, an oven is entirely a different cooking system. There is no such direct heating system. An oven has a mechanical process of heat being availed of through the source of electricity. In other words, an oven has no relationship either with the LPG or a timber fire. There may be many other kinds of country side Chulhas including an electric heater but all of them have a direct source of heating system either from timber or from coal or from electricity but there is no Chulha which can have an indirect computerized heating system like an oven. We are, therefore, of the decisive view that neither a Chulha is oven nor the vice-versa is true. In other words, Chulha is a Chulha having a direct heating system from many source of energy as indicated above and oven is mainly operated with the energy of electricity. We, therefore, quash the impugned judgment particularly the interpretation of an oven and hold that the respondent/complainant did not correctly use the Borosil oval casserole in an electric oven rather wrongly placed it on a direct heating system of Chulha which resulted in total breakage and wreckage of the casserole.

In the result, this appeal succeeds and is hereby allowed.

The impugned judgment is set aside and the complaint of the respondent stands dismissed.


(JUSTICE BHANWAR SINGH)
PRESIDENT


(SYED ALI AZHAR RIZVI)
MEMBER