

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
UTTAR PRADESH, LUCKNOW

REVISION NO. 150/SC/2010

(Against the order dated 22.06.2010 passed in Execution
Case No. 44/2001 of the District Consumer Forum,
Bulandshahr)

Meera Devi
W/o Sri Malkhan Singh
Reg. Gyanlok Colony
Town Khurja, Distt. Bulandshahr
Present Add: New Shivpuri,
Kila Road, Khurja
Distt. Bulandshahr

..... Revisionist

Versus

Javis Finance & Securities Pvt Ltd.
Novelty Cinema Road
Khurja, Distt. Bulandshahr

..... Opposite party

REVISION NO. 01/SC/2011

(Against the order dated 21.12.07.2010 & 10.07.2007 passed
in Revision No. 139/2001 by this Commission)

Meera Devi
W/o Sri Malkhan Singh
Reg. Gyanlok Colony
Town Khurja, Distt. Bulandshahr
Present Add: New Shivpuri,
Kila Road, Khurja
Distt. Bulandshahr

..... Revisionist

Versus

Javis Finance & Securities Pvt Ltd.
Novelty Cinema Road
Khurja, Distt. Bulandshahr

..... Opposite party

BEFORE:

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

For Revisionist :Sri Anil Kumar Misra, Advocate
For the Opposite party :Sri Sanjeev Bahadur Srivastava, Advocate

Dated: 24.01.2011

JUDGMENT

Both these revisions are taken up together for disposal. In the
original complaint No 339/1999, both, the revisionist and the
opposite party, were the complainants. Smt Meera Devi purchased a

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truck with the help of loan of Rs 2,50,000/- sanctioned to her by Jarvis Finance & Securities Pvt. Ltd. Smt Meera Devi had also invested more than Rs 2,50,000/- in purchasing the said truck. Unfortunately the truck had been stolen shortly after it had been purchased. The owner of the truck Smt Meera Devi and the Finance Company both had jointly filed complaint No 339/1999 against the Oriental Insurance Company Limited. The complaint for recovery of Rs 3,50,000/- was decreed. It was also liable to pay interest at the rate of 12% per annum from 18.5.1998. The appeal filed against the judgment dated 27.02.2001 of the District Consumer Forum, Bulandshahr was dismissed. Then commenced the execution proceedings initiated by Smt Meera Devi and the Finance Company, but somehow the entire sum, i.e. Rs 4,96,684/-, was released in favour of Smt Meera Devi.

The Finance Company felt aggrieved of the said release and, therefore, preferred an application before the District Consumer Forum praying for recall of the release order so that the dues which would have fallen to the share of the said company would have also been released in its favour. However, the said application was rejected. The Finance Company then filed a revision No 139/SC/2004 and questioned the propriety of the release order as well as the order of rejection passed on its application. The said revision was allowed on 10.7.2007 and it was directed that Smt Meera Devi shall deposit the entire sum with the District Consumer Forum and subsequent to such deposit the accounts between the two would be settled and money released as per entitlements. In the execution petition No. 49/2001 before the District Consumer Forum, bailable warrant was issued against Smt Meera Devi on 21.5.2010 as she failed to deposit the money in compliance of this Commission's order dated 10.07.2007. However, the bailable warrant was stayed vide order dated 16.08.2010 passed in revision No 150/2010 and Smt Meera Devi was directed to appear before the Forum in compliance to its order. Smt Meera Devi has not yet appeared before the District Consumer Forum, rather an application was moved on her behalf for a direction to be issued to the Finance Company to submit a statement of accounts. The said application has been rejected by means of the order dated 21.12.2010, now challenged in the other revision petition No 1/SC/2011.

Mr Anil Kumar Sharma, Learned Counsel for the revisionist has also prayed for recall of this Commission's order dated 10.7.2007 passed in revision petition No 139/SC/2004. However, the said order

was passed on the basis of a very sound reasoning that the amount deposited by the Insurance Company should have been released in the ratio of their share in favour of Smt Meera Devi and the Finance Company. Even if Smt Meera Devi had not appeared in the revision petition, the judgment passed in the revision by this Commission was just, reasonable and sustainable. After a lapse of 3½ years it cannot be recalled as the said judgment did not suffer from any infirmity, legal or factual. Insofar as the rights and claims of Smt Meera Devi are concerned, the District Consumer Forum would be competent to adjudicate upon them after settling of accounts. It is a matter of principle that both the decree holders, namely Smt Meera Devi and the Finance Company, should have got their dues but as is obvious, the Finance Company did not get a single penny out of the money deposited by the Oriental Insurance Company. It has been submitted before us that only four instalments, totalling to Rs. 47,560/- were received by the Finance Company before the truck had been stolen. As per details of the accounts placed before us, the amount of 22 instalments more is still outstanding against her and calculating her liability accordingly a sum of Rs 6,37,232/- is said to be outstanding against her. In these two revisions we would not like to open the accounts of two parties and go into the details of their entitlements, but certainly the District Consumer Forum will look into the details of the accounts to be furnished by both the parties in support of their respective contentions.

The case law relied upon by Sri A K Mishra in "*Indian Oil Corporation V/s Lakshmi Shankaranarayan & Others, (1999), 9 Supreme Court Cases 27*" is not attracted as the order before us is a reasoned order while the ex-parte order set aside by the Hon'ble Apex Court was a non-reasoned order.

Accordingly we hold that the impugned orders challenged by these two revisions except in regard to issuance of bailable warrant do not suffer from any jurisdictional error or any legal infirmity. Since Smt Meera Devi is under an obligation to deposit the entire money with the District Consumer Forum as directed by this Commission vide its order dated 10.7.2010, in revision petition No 139/SC/2004, the two orders being in consonance with the same, are perfectly just and legal. As a matter of fact the directions issued to Smt Meera Devi to refund the money to Oriental Insurance Company seems to be exceedingly difficult as Oriental Insurance Company has not come forward to claim refund from Smt. Meera Devi perhaps contemplating that the dispute vis-a-viz. its liability

had already terminated with the release of the aforesaid fund. In such circumstances it seems to be in fitness of affairs that Smt Meera Devi deposits the said money with the District Consumer Forum, Bulandshahr and after settlement of accounts between the two decree holders, appropriate orders regarding release of the said money are issued by the Forum below. After Smt Meera Devi deposits the money, the District Consumer Forum shall accordingly settle the dispute.

Both these revisions are disposed of accordingly.

This judgment shall be placed on the record of Revision No 150/SC/2010 with its copy be laid on the record of Revision No 01/SC/2011.


(JUSTICE BHANWAR SINGH)
PRESIDENT


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(RAMPAL SINGH)
MEMBER

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