

A.F.R.

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION,  
UTTAR PRADESH, LUCKNOW**

**REVISION NO. 50 OF 2016**

(Against the order dated 14-12-2015 in Complaint Case No.  
288/2015 of the District Consumer Forum-I, Lucknow )

Tata Motors Limited  
Bombay House, 24, Homi Mody Street, Fort  
Mumbai 400001  
Through its Chairman Sri C P Mistry  
Interalia its branch office at  
Deva Road, Chinhat, Lucknow

...Revisionist

Vs.

01. Ashish Bajpayee  
S/o Uma Kant Bajpayee  
R/o 102/24, Shivaji Marg  
Lucknow

02. Goldrush Sales and Services Limited  
2A & B, Hal Ancilliary Estate  
Opposite SBI, Ismailganj  
Faizabad Road, Lucknow.

03. Motor Sales  
2, Ravindranya  
Charbagh, Lucknow.

...Opposite parties

**BEFORE:**

**HON'BLE MR. JUSTICE AKHTER HUSAIN KHAN, PRESIDENT  
HON'BLE MRS. BAL KUMARI, MEMBER**

For the Revisionist : Sri Rajesh Chadha, Advocate.

For the Opposite Party No.1 : Sri Shiv, Advocate.

Dated : 16-08-2016


**JUDGMENT**

**MR. JUSTICE A. H. KHAN, PRESIDENT (ORAL)**

Present revision has been filed under Section 17(1)(b) of the Consumer Protection Act 1986 against order dated 14-12-2015 passed by District Consumer Forum-I, Lucknow in complaint No.288/2015, Ashish Bajpayee V/s Pradip Agarwal and others whereby District Consumer Forum has closed opportunity of written statement and passed order to proceed exparte against opposite party/revisionist.

Learned Counsel Mr. Rajesh Chadha appeared for revisionist.

Learned Counsel Mr. Shiv appeared for opposite party No.01.





We have heard learned Counsel for the parties and gone through record.

Order dated 03-11-2015 passed by District Consumer Forum shows that on this date none appeared and order was passed to wait for notice fixing 14-12-2015 date for written statement. On 14-12-2015 the opposite party/revisionist appeared and moved application for time to file written statement. Placing reliance upon judgment of Honourable Apex Court rendered in the case of New India Assurance Company Limited V/s Hilli Multipurpose Cold Storage Private Limited reported in 1(2016) CPJ-1 SC, the District Consumer Forum has rejected application of opposite party/revisionist and closed opportunity of written statement on the ground that notice has been issued on 20-10-2015 and more than 45 days have been elapsed thereafter.

On 04-11-2015 the District Consumer Forum has not recorded finding of sufficient service of notice rather it has ordered to wait for notice fixing 14-12-2015 for written statement. On 14-12-2015 when opposite party/revisionist appeared and prayed for time to file written statement the District Consumer Forum rejected application of opposite party/revisionist without considering as to whether notice issued by District Consumer Forum has been served on opposite party or has been returned unserved. If the envelop has not been returned unserved after expiry of 30 days from the date of despatch of service of notice, it shall be presumed sufficient. As such a formal order shall be passed to hold service of notice sufficient.

Period of thirty days for filing written statement prescribed in Section 13(1)(a) and (2)(a) shall commence from date of service of notice on opposite party. As mentioned above on 03-11-2015 the District Consumer Forum has passed order to wait for notice and has fixed date 14-12-2015 for written statement. On 14-12-2015 the opposite party/revisionist appeared for the first time and on 03-11-2015 ( the previous date ) service of notice on opposite party/revisionist had not been held sufficient, therefore, the opposite party/revisionist should have been given extended time of 15 days by District Consumer Forum to file written statement. District Consumer Forum itself has not complied provisions of Section 13(1)(a) and (2)(a) by fixing date for written statement beyond thirty days at one stretch.

In view of above impugned order passed by District Consumer Forum

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is against law.

Revision is allowed. Impugned order dated 14-12-2015 passed by District Consumer Forum is set aside. Opposite party/revisionist is directed to appear before District Consumer Forum on 09-09-2016 and to file written statement positively within 15 days from said date of appearance. No further time shall be granted again.

District Consumer Forum shall ensure expeditious disposal of complaint within three months from above date of appearance.

Let copy of this order be made available to the parties as per rules.

  
( JUSTICE A H KHAN )  
PRESIDENT

  
( SMT. BAL KUMARI )  
MEMBER

Pnt.