

Pratibha Pratisthan & Ors vs Manager, Canara Bank & Ors on 7 March, 2017

Equivalent citations: AIR 2017 SC 1303, 2017 (3) SCC 712, 2017 (3) ABR 67, 2017 AJR 840, (2017) 2 RECCIVR 242, (2017) 3 PUN LR 775, (2017) 4 MAD LW 800, (2017) 173 ALLINDCAS 103 (SC), (2017) 2 CIVILCOURTC 662, (2017) 1 WLC(SC)CVL 519, (2017) 2 CIVLJ 454, (2017) 3 KCCR 304, (2017) 2 CURCC 123, (2017) 3 MPLJ 678, (2017) 3 BOM CR 55, (2017) 122 ALL LR 522, (2017) 5 MAH LJ 214, (2017) 2 KER LJ 645, (2017) 2 KER LT 102, (2017) 3 SCALE 387, (2017) 3 UC 1665, (2018) 2 CAL HN 160, (2017) 1 CLR 898 (SC), AIR 2017 SUPREME COURT 1303, 2017 (4) AJR 840, AIR 2017 SC (CIVIL) 2430

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Bench: Madan B. Lokur, Prafulla C. Pant

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3560 OF 2008

Pratibha Pratisthan & Ors.

...Appellants

vs.

Manager, Canara Bank & Ors.

...Respondents

WITH

CIVIL APPEAL NO. 3561 OF 2008

J U D G M E N T

Madan B. Lokur, J.

1. In these appeals a very short question has arisen, namely, whether a complaint can be filed by a Trust under the provisions of the Consumer Protection Act, 1986 (for short, 'the Act'). The National Consumer Disputes Redressal Commission (for short, 'National Commission') answered the question in the negative and we are in agreement with that view.

2. Section 2 (c) of the Act provides for a complainant making a complaint, inter alia, for an unfair trade practice or a restrictive trade practice adopted by any trader or service provider; a complaint in respect of goods (bought by a complainant) suffering from one or more defects; a complaint of deficiency in services hired or availed of by a complainant and so on. A complainant is defined in Section 2 (b) of the Act in the following words :-

(b) "complainant" means -

(i) a consumer; or

(ii) any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or under any other law for the time being in force; or

(iii) the Central Government or any State Government; or

(iv) one or more consumers, where there are numerous consumers having the same interest;

(v) in case of death of a consumer, his legal heir or representative ; who or which makes a complaint;

3. It is quite clear from the above definition of a complainant that it does not include a Trust. But does a Trust come within the definition of a consumer?

A consumer has been defined in Section 2 (d) of the Act as follows :-

(d) "consumer" means any person who, -

(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment, when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or

(ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person; but does not include a person who avails of such services of any commercial purpose;

Explanation. - For the purposes of this clause, "commercial purpose"

does not include use by a person of goods bought and used by him and services availed by him exclusively for the purposes of earning his livelihood by means of self-employment;

4. A reading of the definition of the words 'complaint', 'complainant' and 'consumer' makes it clear that a Trust cannot invoke the provisions of the Act in respect of any allegation on the basis of which a complaint could be made. To put this beyond any doubt, the word 'person' has also been defined in the Act and Section 2(m) thereof defines a person as follows :-

(m) "person" includes, -

(i) a firm whether registered or not;

(ii) a Hindu undivided family;

(iii) a co-operative society;

(iv) every other association of persons whether registered under the

Societies Registration Act, 1860 (21 of 1860) or not

5. On a plain and simple reading of all the above provisions of the Act it is clear that a Trust is not a person and therefore not a consumer. Consequently, it cannot be a complainant and cannot file a consumer dispute under the provisions of the Act.

6. In view of the above, we are of opinion that the National Commission was quite right in holding that the complaint filed by the appellant Trust was not maintainable.

7. We have heard submissions of learned counsel for the parties on the merits of the dispute. However, since we have concluded that the complaint itself was not maintainable, we refrain from making any comment on the merits of the dispute.

8. The appeals are dismissed.

.....J (Madan B. Lokur) New Delhi;

.....J March 7, 2017 (Prafulla C. Pant)