

M/S ANJANEYA JEWELLERY

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v.

NEW INDIA ASSURANCE CO.LTD. & ORS.

(Civil Appeal No. 6878 of 2018)

MARCH 07, 2019

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**[ABHAY MANOHAR SAPRE AND  
DINESH MAHESHWARI, JJ.]**

*Consumer Protection Act, 1986:*

*s.13 – Dismissal of complaint in limine by the National Commission – Justification – Held: Although Commission has the jurisdiction to dismiss the complaint in limine and decline its admission without notice to the opposite party, however, such jurisdiction to dismiss the complaint in limine has to be exercised by the Commission having regard to facts of each case, i.e., in appropriate case – In the instant case, the facts do not deserve the dismissal of the appellant’s complaint in limine and, therefore, the impugned order is set aside – Appellant’s complaint is admitted under s.13 of the Act and one month’s time is granted to the respondents to file their reply to the complaint to enable the Commission to decide the complaint on its merits in accordance with law.*

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CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6878 of 2018.

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From the Judgment and Order dated 22.05.2018 of the National Consumer Disputes Redressal Commission at New Delhi in Consumer Case No. 1094 of 2018.

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Ms. Meenakshi Arora, Sr. Adv., Ms. Bhabna Das, Krishna Dev Jagarlamudi, Advs. for the Appellants.

Salil Paul, Sahil Paul, Ms. Manjeet Chawla, Advs. for the Respondents.

The Judgment of the Court was delivered by

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**ABHAY MANOHAR SAPRE, J.**

1. This appeal is filed against the final judgment and order dated 22.05.2018 passed by the National Consumer Disputes Redressal Commission, New Delhi(hereinafter referred to as “the Commission”)

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A in Consumer Case No.1094 of 2018 whereby the Presiding Member of the Commission dismissed the complaint filed by the appellant herein.

2. A few facts need mention hereinbelow for disposal of this appeal, which involves a short point.

B 3. By impugned order, the Presiding Member of the Commission dismissed the appellant's complaint in *limine*. It is against this order, the complainant has filed this appeal under Section 23 of the Consumer Protection Act, 1986(hereinafter referred to as "the Act").

C 4. So, the short question, which arises for consideration in this appeal, is whether the Commission was justified in dismissing the appellant's complaint in *limine*.

5. We have perused the appellant's complaint so also the impugned order which resulted in its dismissal. Having gone through the same, we are of the considered opinion that notice of the complaint should have been issued to the respondent for being tried on merits.

D 6. In other words, we are of the view that the complaint filed by the appellant did not deserve its dismissal in "*limine*" but the complaint deserved admission for its disposal on merits after giving notice to the respondents (opposite party).

E 7. Learned counsel for the respondents, however, argued that since the impugned order contains reasons for the dismissal of the complaint and hence the impugned order does not call for any interference.

F 8. We do not agree with this submission. In our view, having regard to the nature of the dispute raised by the appellant in their complaint, the same *prima facie* needed a reply from the respondents and then its disposal on merits.

G 9. Learned counsel for the respondents then argued that Section 13 of the Act has undergone amendment w.e.f. 15.03.2003. Learned counsel pointed out that earlier Section 13 had the words "procedure on receipt of complaint". However, after 15.03.2003, in place of these words, the words "on admission of a complaint" were substituted.

10. It was, therefore, his submission that the Commission has now the jurisdiction to dismiss the complaint in *limine* and decline its admission without notice to the respondents (opposite party).

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11. There is no dispute with the legal proposition urged by the learned counsel for the respondents in the light of amendment made in Section 13 of the Act. A

12. In other words, the Commission does have the jurisdiction to dismiss the complaint in *limine* and decline its admission without notice to the opposite party. However, such jurisdiction to dismiss the complaint in *limine* has to be exercised by the Commission having regard to facts of each case, i.e., in appropriate case. B

13. As held above, the facts of the case at hand do not appear to be of the nature, which deserved the dismissal of the appellant's complaint in *limine*. C

14. In view of the foregoing discussion, we allow the appeal, set aside the impugned order, admit the appellant's complaint under Section 13 of the Act and grant one month's time to the respondents to file their reply to the complaint to enable the Commission to decide the complaint on its merits in accordance with law uninfluenced by any observations made in the impugned order as also in this order. D

15. Indeed, having formed an opinion to remand the case in the light of our observation made supra, we did not consider it apposite to set out the facts in detail and nor consider it appropriate to make any observations on factual aspects else it would cause prejudice to the parties while prosecuting their case before the Commission on merits. E