IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.5097 of 2002

Krishna Kant Singh @ Baristar Singh

....Appellant(s)

Versus

Sasaram Bhabhua Central Co-operative Bank Ltd. & Ors.Respondent(s)

ORDER

This appeal under Section 23 of the Consumer Protection Act, 1986 is directed against the final order dated 10th July, 2002 passed by the National Consumer Disputes Redressal Commission (hereinafter referred to as 'the Commission') in O.P. No.171 of 1996.

By the impugned order the complaint filed by the appellant has been dismissed by the Commission on the ground that it was barred by limitation. The Commission has noted that the claim made on the Bank was lastly on 16th May, 1994 and the complaint was filed on 26th August, 1996, which was obviously beyond the period of limitation.

We have heard learned counsel for the parties. Mr. Shiv Pujan Singh, learned counsel appearing on behalf of the appellant has strenuously urged that the Commission has erred in not condoning the delay in preferring the complaint because there was sufficient cause for the delay. It is pleaded that the appellant was arrested in some case on 5th June, 1994; he remained in custody for a

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and therefore, he was prevented by a sufficient cause in not preferring the complaint within time.

In the light of the facts found by the Commission, we are not persuaded to agree with the learned counsel. It is manifest that the Commission was not oblivious of the fact that the appellant was in jail till 4th February, 1995. As a matter of fact, taking note of the factum of arrest of the appellant and his release on bail on 4th February, 1995, the Commission has observed that since 19th December, 2001 it had been asking the appellant to produce the evidence by means of an affidavit to explain the delay in filing of complaint on 26th August, 1996 after his release on 4th February, 1995. However, no affidavit was filed on behalf of the appellant. Under the circumstances, the Commission had no option but to dismiss the complaint as barred by limitation.

We do not find any infirmity in the impugned order warranting our to interference. The appeal is dismissed accordingly.

>J. [D.K. JAIN]

[R.M. LODHA] NEW DELHI, MARCH 26, 2009.

