

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2008
(Arising out of SLP (C) No.19515 of 2004)

Prem Nath Motors Ltd.

....Appellant

Versus

Anurag Mittal

....Respondent

JUDGMENT

Dr. ARIJIT PASAYAT, J.

1. Leave granted.
2. Challenge in this appeal is to the order passed by Monopolies Restrictive Trade Practices Commission, New Delhi, (in short 'Commission') dismissing the application filed by the present appellant.

3. Background facts in a nutshell are as follows:

An International Car Manufacturing Company i.e. M/s. Automobiles Peugeot of France had entered into a joint venture agreement with manufactures of Premier Cars in India which had a network of dealers spread all over the country, for the purpose of manufacturing and sale of Peugeot 309 models car in India.

The original agreement of M/s. Automobiles Peugeot of France was with M/s. Kalyan Motors Company Limited which was incorporated during 1994. Subsequently, M/s. Kalyan Motors was named Pal Peugeot Limited/Premier Automobiles Limited.

Thereafter M/s Pal Peugeot Limited gave advertisements in various newspapers, inviting application for Priority-cum-Registration of Peugeot 309 cars. The individual who were interested in purchasing the said car, applied to M/s Pal Peugeot Limited at: Kalyan Shil Road, Manpada, Dombilvli-421204, Distt. Thane, Maharashtra.

Some individuals like the respondent No.1 submitted their application at Prem Nath Motors Ltd. with a cheque of Rs.25,000/- in the name of Pal Peugeot.

It is pertinent to point out that Prem Nath Motors Limited was dealer of Pal Motors, with whom the Peugeot Company had entered into an agreement. Petitioner before Commission had nothing to do with the advertisement, in response to which the individuals had applied for the said. In fact, the individuals had submitted their applications at Prem Nath Motor's office only due to above reasons.

It is also necessary to add that the cheque submitted by the individual person, whoever was interested in purchasing the said car was given in the name of M/s Pal Peugeot Limited and Prem Nath Motors Limited, i.e. the appellant herein had no other role except to send the same to M/s Pal Peugeot Limited.

But the individual i.e. the respondent No.1 herein who seems to had applied for "Peugeot 309 Car" did not get the delivery and, therefore, asked for the refund of the booking amount of Rs.25,000/-. As the said amount

was not refunded, the respondent No.1 filed a Claim Petition under Section 12-B of the Monopolies and Restrictive Trade Practices Act, 1969 (in short the 'Act') on the grounds of failures on the part of respondents to refund the said amount.

The appellant's stand before the Commission was that the liability, if any, was of M/s. Pal Peugeot to pay to respondent. According to the appellant it was only the agent/dealer of said party.

4. Section 230 of the Contract Act categorically makes it clear that an agent is not liable for the acts of a disclosed principal subject to a contract of the contrary. No such contract to the contrary has been pleaded. An identical issue was considered by this Court in the case of Marine Contained Services South Pvt. Ltd. vs. Go Go Garments AIR 1999 (SC) 80 where a similar order passed under the Consumer Protection Act was set aside by this Court. It was held that by virtue of Section 230 the agent could not be sued when the principal had been disclosed.

5. A similar view has been expressed by a three judge Bench of this Court in Civil Appeal 6653/2005 arising out of S.L.P. (C) No.19562/2004.

6. The appeal is allowed accordingly.

.....J.
(Dr. ARIJIT PASAYAT)

.....J.
(Dr. MUKUNDAKAM SHARMA)

New Delhi:
November 14, 2008