

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6677 OF 2014

1. Yashwant Nagari Sahakari Patsanstha
Maryadit, Office at Shrirampur
Tq. Shrirampur, District Ahmednagar
Through its Assistant Manager
Sharad s/o Haribhau Parbhale
Age 33 years, Occ. Service
 2. The Accountant,
Yashwant Nagari Sahakari Patsanstha
Maryadit, Branch at Jijamata Chowk,
Shrirampur, Tq. Shrirampur,
District Ahmednagar
 3. The Manager,
Yashwant Nagari Sahakari Patsanstha
Maryadit, Branch at Jijamata Chowk,
Shrirampur, Tq. Shrirampur,
District Ahmednagar
 4. The Chairman,
Yashwant Nagari Sahakari Patsanstha
Maryadit, Branch at Kolhar
Tq. Shrirampur, District Ahmednagar ...Petitioners
- versus
1. Vijay Bhausaheb Shinde,
Age 43 years, Occ. Business,
R/o. Loni (Kh), Tq. Rahata
District Ahmednagar
 2. Sow. Sunita w/o Vijay Shinde
Age 38 years, Occ. Household
R/o. Loni (Kd), Tq. Rahata
District Ahmednagar ...Respondents

...
Advocate for Petitioners : Mr. Kute Rajendra L.
Advocate for Respondents 1 and 2: Mr. R.R. Karpe
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CORAM : V. K. JADHAV, J.
DATED : 25th FEBRUARY, 2016

ORAL JUDGMENT:-

1. Rule. Rule returnable forthwith. By consent of learned counsel for the parties, heard finally at admission stage.

2. The respondents-original complainants had filed complaint No. 220 of 2011 before the District Consumer Dispute Redressal Forum, at Ahmednagar for recovery of amount deposited by them in Lakhpati deposit scheme in the petitioner - Patsanstha. The District Consumer Dispute Redressal Forum by order dated 25.9.2013 allowed the said complaint, holding that the respondents are entitled to receive the amount of Rs.1,00,000.00 (Rupees one lac) each, as there is deficiency in service. Aggrieved by the same, the petitioners preferred First Appeal No. 348 of 2013 before the State Consumer Dispute Redressal Commission, Mumbai, Bench at Aurangabad. The petitioners had deposited entire amount before the State Commission. However, the Presiding Member of the State Commission has dismissed the said appeal in default. Hence, this writ petition.

3. Learned counsel for the petitioners submits that the counsel engaged by the petitioners could not attend the matter on the dates

given due to his personal difficulty. Learned counsel further submits that on the date of passing of impugned order, the petitioners' representative appeared before the Commission little late.

4. Learned counsel for the respondents submits that the petitioners were not diligent in prosecuting the appeal. The appeal came to be adjourned on three dates and on all three dates, neither the appellants nor their counsel were present. Learned counsel submits that the Presiding Member of State Commission, therefore, has rightly dismissed the appeal in default.

5. It appears that the appeal has not been decided on merits and same is dismissed in default. The petitioners complied the order passed by the District Consumer Dispute Redressal Forum by depositing the amount before the State Commission. In view of this, I am inclined to allow this writ petition by imposing certain costs. Hence, the following order:-

O R D E R

- I. The impugned order dated 19.6.2014, passed by the State Consumer Disputes Redressal Commission, Maharashtra State, Mumbai, Bench at Aurangabad in appeal No. 348 of 2014, is hereby quashed and set aside subject to condition of payment of Rs.5000/-

(Rupees Five thousand only) towards the costs to be deposited by the petitioners before the State Commission, within two weeks from today.

- II. On deposit of said costs amount, the State Commission shall hear the appeal on merits. The respondents are at liberty to withdraw the costs amount of Rs.5000/-.
- III. Rule made absolute in the above terms. Writ petition is disposed of. No costs.

(V. K. JADHAV, J.)

rlj/