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CONSUMER PROTECTION: IN THE CONTEXT OF CONSUMER PROTECTION ACT, 1986.



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ABSTRACT:

“Consumer is said to be king of the market. However, right from the stage of the manufacturing and production of the goods to the stage of the retail sale and providing services, the consumer is easily respectable to gullible and unfair trade practices when he buys he goods in the market or services which he avails for the consideration .the laws prior to the enactment of the consumer protection Act,9186did not attract much attention of the consumer towards their rights but with the enactment of this Act, the consumer awareness towards their right has grown tremendously. The amendments of the Act have widened the scope of remedial provision. Law of consumer protection in

the form of a specific enactment is meant to provide cheap and officious remedy to the consumers. The remedies available under the general law have been left untouched .this is an ever-growing subject of vital interest with specific machinery at the district, state and National levels to deal with consumer disputes. Consumer problems are various. Humanitarian justice demands the consumer items to be free from any defect and services to be provided to the consumers free from any deficiency .in India where the consumers have been general negligent in taking the legal recourse for the protect of their rights, the Act has given a new boast to the consumer awareness with the spate of cases coming before consumer forum



KEY WORDS: *Consumer Protection, consumer awareness, Consumer problems, consumer forum*

Need for consumer protection Laws:

There were laws for the protection of consumer but not justice. Generally consumers have not taken much resource for their protection under these laws because of dilatory and technical legal procedure.

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The consumer protection Act, 1986 provides heap and efficient remedy to the consumers besides the remedies available under the other laws. Consumers knowing that that they are generally cheated in market. goods regarding the quality weight and slandered. Have become accustomed to bear every lightly the plains of it as if it were very common to all. In India many people are economically poor, educationally backward and politically not conscience so sometimes, they are ignorant of the laws for their protections and sometimes they are quite non-serious about the ultimate effect of these things on them and society at large. The law is not needed where the people are perfectly honest. But when the interest to earn huge profits by the manufactures, dealers and retailers results are in loss to the consumers. Further days days various services are being provided to by the private as well as governmental agencies hence consumers who is real king of the market is needed to be protected from the deficiency of services and defective goods.

Salient features of the consumer protection:

There are following salient features of the consumer protection -----

- Act for the better protection of the consumer
- Consumer dispute redressal agencies
- Reliefs under the Act to consumers
- The act not to be in derogation of other Acts
- Consumer protection council
- Consumer forums to be vested with powers of civil court
- Power of consumer forums to award imprisonment in default of compliance of order
- Restrictive and Unfair trade practices

Act for the better protection of the consumer:

The preamble of the consumer protection Act explains its objet as follows:

“An Act to provide for the better protection of the interest of the consumers and for that purpose to make provision for the settlement of consumer’s disputes and for matters connected with”¹

Hence, the consumer protection Act attempts to remove the helplessness of a consumer which he faces against the powerful business, describes network of rackets or a society in which produces have secured power to rob the rest and the might of public bodies which are degenerating in to the storehouse of inaction where papers do not move from one desk to another as a matter of duty and responsibility but for the extraneous considerations leaving the common man helpless, bewildered and shocked.² This Act specifically deals with the compensation and other reliefs as provided by the section 14 of the Act. “Consumer “ as defined in sec(2) (d) means person, who buys a goods or is the user of such goods but it does not include the person who obtains the goods for re-sale or commercial purpose. But if a person buys and uses goods for solely with the end goal of procuring of his job by method for independent work, does not acquire the products for business reason. Purchaser implies a man who contracts or benefits of any administrations for consideration and includes beneficiary of services, but it does not include the person who buys service for commercial purpose.³ Hence as per this Act, consumer means and includes, The person who buys gods or services ,authorized user ,Valier of services, beneficiary ,any customer, these kind of person will have right to file complaint again defective goods as well as deficiency in services.⁴

Consumer dispute Redressal agencies:

India is the only country in the world, who has created three tier redressal machineries for speedy and quicker justice. At District level, District forum, State level State commission and National Level National Commission.⁵ A district forum shall be solely with the end goal of procuring of his job by method for independent work, does not acquire the products for business reason. Purchaser implies a man who contracts or benefits of any administrations for. A state commission shall be established in each state by the state government .the central government shall establish a national commission. The jurisdiction of district forum shall to be amusing grumblings where the estimation of merchandise or administrations or remuneration, if any guaranteed does not surpasses 20 lakhs. The state commission has appellatejurisdiction against the any request of the region gathering inside the state. The state commission might enthrall the grievances where the estimation of administration or merchandise or remuneration does not surpass then 1 crore. The national commission has unique ward to excite dissensions where the estimation of products or administrations and remuneration above tha1 crore. The state commission and national commission have also revisional jurisdiction, against the order of the district forum and state commission respectively. The appeal can be preferred to the Supreme Court form the order of the national commission.⁶

Reliefs under the Acts to Consumers:

According to the sec 14(1) (a) to (i) of this Act, the consumer forum can gran reliefs to the consumers.⁷ For these reliefs there must be a “Consumer dispute” as defined in the Act, 1986.⁸ Means where the persons against whom complaint has been made, Denies the dispute or allegation contained in the compliant as defined in the Sale of Goods Act.⁹ After entertaining the complaint the reliefs can be granted by the forum such as, removal of defects, replacement of goods refund of price or charges, compensation for any misfortune or harm endured by the customer because of carelessness ,evacuation of any imperfections then again inadequacies in administrations, stopping of any out of line exchange rehearses or prohibitive exchange hones also, non-reiteration thereof bearings not to offer unsafe merchandise available to be purchased, to pull back the perilous merchandise from being advertised from the sale and to provide adequate coast to parties.¹⁰

The Act not to be in derogation of other Acts:

The Act provides that In 2003, the District customer security committee has additionally been made at locale level fo tor the advancement and insurance of the privileges of the purchasers.¹¹ It means if there is any remedy under any other Act, the consumer has choice to seek the remedy under the provisions of the law where he wants. The remedy provided by the consumer protection Act is summery and nor expensive. If the detailed consideration of the matters e.g. the account, technicalities, etc. Are involved, the consumer cannot seek remedy under the consumer protection Act.¹² if the matter has already been decided by any other court of the matter is pending before any court or tribunal of MRTP commission, the same matter cannot be brought before the any consumer dispute redressal agency as it cannot have a concurrent jurisdiction with other courts.¹³ If there is any specific Act is dealing with any specific matter, which matter cannot be brought before the Consumer dispute redressal agency¹⁴

Consumer protection council:

The central government has been empowered has been empowered to establish a consumer protection council with the minister in-charge of consumer affairs in the central government as its

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chairman and such number of other officials and non-officials members representing such interests as may be prescribed.¹⁵ likewise a state council may be established by the state government.¹⁶ The council shall meet as and when necessary but at least one meeting is necessary in a year. The objects of the council are to protect certain rights of consumers.

- The right against marketing of goods which are hazardous to life and property
- The right to be informed about the quality quantity and purity, potency date of manufacture and price of goods
- The right to be protected against unfair trade practice and unscrupulous exploitation of the consumers
- The right to assured whenever the is possible access of verity of goods
- The right to be head in consumer dispute redressal agency
- The right to consumer education.¹⁷

In 2003, the District consumer protection council has also been made at district level for the promotion and protection of the rights of the consumers.¹⁸

Consumer forums to be vested with powers of civil court:

The Consumer Dispute redressal agencies like, District forum, state commission and National commission have been vested with the powers of Civil Court while a trying a suit regarding summoning, enforcing participation of any respondent or witness or looking at the witness on promise, the revelation and creation of any archives or other material articles in the proof, the gathering of confirmation on sworn statements, the ordering of the report of the concerned examination of test from the fitting research center or from some other applicable source, issuing of any commission for the examination of any 19 witness, and whatever other matter which might be recommended. The procedure before the area gathering, state commission and national commission might be esteemed to be the legal continuing inside of the importance of segment 193 and 228 of the Indian reformatory code and they might be esteemed to be respectful courts for 20 the reasons of area 195 and section XXVI of the code of criminal technique 1973. On the off chance that the complainant is a shopper under segment 2(1) (b) (iv), the procurement of principle 8, Order I of first calendar to the Code of common Procedure might apply sublet to the change that each reference in that to suit or decree shall be developed as a source of perspective to protest or request of the locale discussion, State commission or National omission as the case may be.²¹

Power of consumer forums to award imprisonment in default of compliance of order:

A Consumer dispute redressal agency has power to punish a trader, manufacturer, seller retailer or service provider, consumer himself or a person against whom a complaint has been made or the complainant for the failure or omission to comply with its order. The punishments for minimum terms of one month and maximum terms of three years or with a minimum fine Rs. Two thousand Rupees and maximum fine Rs. ten thousand rupees.²²

Restrictive and Unfair trade practices:

- The Act authorizes Consumer dispute redressal agencies to grant the reliefs of discontinuous of restorative trade practices and unfair trade practices and not to repeat them. In case of an unfair trade practice, if it finds that the practice is prejudicial to the public interest or to the interest of any consumer or consumers generally, it may be order direct—
- To discountenance or not repeal such practice

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- Any agreement relating to such practice void or modified in the manner specified in the order
- Any information, statement or development or advertisement relating to such an unfair trade practice to be disclosed, issued or published as the as may be in the manner specified in the order .²³

It means any trade practice which requires a consumer to buy hireravail of any goods or as the as may be serviceas the as may be, services as condition precedent for buying or hiring or availing of other goods or services²⁴ sometimes trade practice can be adopted by the trader, which for the purpose of promoting the sale, use or supply of any goods or for the provision of any services, adopts any unfair method or unfair deceptive practice .²⁵

Conclusion:

The provisions of the Consumer protection Act, 1986 is not applicable not only to a person who buys the goods or hires the service but also to a person who uses such goods or series so the general rule that third the third party to contract cannot bring an action is not applicable to a complaint filed under the consumer protection Act. Besides a complaint can also be files by the state govt, central govt, any voluntary consumer association, and any legal heirs of any deceased consumer or representatives.²⁶ I think with respect to the interest of the consumers not only Caveat emptor but also Caveat venditor. Hence The Consumer protection Act, 1986 itself Social benefit oriented legislation hence its provisions of the consumer protection Act should be interpreted with view to protecting the interest of the consumers.²⁷

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