

Details	DD	MM	YY
Date of Judgment	13	07	2023
Date of filing	10	10	2022
Duration	03	07	--

**IN THE STATE CONSUMER DISPUTES REDRESSAL
COMMISSION**

STATE OF GUJARAT

COURT NO.1

Appeal No. 631 of 2022

1. National Labour and Consumer Association,
2/101, LIG.3, Rameshvar Apartment,
Besides AadityaGreens Flat,
Chandkheda, Ahmedabad-382424

2. Dinesh Panchal,
2/101, LIG.3, Rameshvar Apartment,
Besides AadityaGreens Flat,
Chandkheda, Ahmedabad-382424

...Appellants

Vs

1. R. S. Corporation(Contractor)
Unified Parking Plot,
Inside Ahmedabad Railway Station(Kalupur)
Kalupur Railway Station Road,
Ahmedabad-380002.

2. M/s R S Corporation
31/12, Bharat Mansion,
K.A.S. Road, Matunga (East),
Mumbai-400019...Office Address

3. Senior Divisional Commercial Manager,
Office of Divisional Railway Manager(Commercial),
Western Railway, Naroda Road,
Amdupura, Ahmedabad-382345.

...Respondents

Appearance: Kishan Panchal, Ld. Adv. for the Appellant
N. S. Bhatt, Ld. Adv. for the respondent no.1 and 2
Ankit Shah, Ld. Adv. for the respondent no.3

Coram: Hon'ble Mr. M.J. Mehta, President (Acting)
Hon'ble Ms. P. R. Shah, Member

ORDER By Hon'ble Mr. M.J. Mehta, President (Acting)

1. The present appeal is preferred by the original complainants, against the judgment and order passed by the Ld. Consumer Disputes Redressal Commission, Ahmedabad (City) dated 25.08.2022 in complaint no.877/2019.
2. The Present appellants are the original complainants and the respondents are the original opponents in the judgment and order passed by the Ld. District Commission, Ahmedabad (City) dated 25.08.2022 in complaint no.877/2019. For the sake of convenience, parties are hereinafter referred to by their original nomenclature/status.
3. The brief facts of the complaint are as under:
On 1305.2019 at around 9.25 a.m., the complainant no.2 had parked his vehicle in the opponent's Unified Parking Plot ADI (BG) Station and received the white receipt of Rs.170/-. Thereafter, on 18.05.2019 at around 9.20 a.m., complainant went there to get back his vehicle and received a yellow receipt of Rs.240/- for the parking charge of 5 days. But actual parking charges for 5 days is only Rs.236/- with GST but, opponent has charged Rs.240/- with GST which is Rs.4/- more than the actual parking charge. Therefore, complainant had filed a complaint before the Hon'ble District Commission alleging unfair trade practice for overcharging.
4. Ld. District Commission has dismissed the said complaint by stating that as the case is of Rs.4/- only, it is disposed off as false and frivolous matter.
5. Today matter came up for hearing. We have heard Ld. Adv. Kishan Panchal for the appellant and Ms. Nehaben Bhatt for

the respondent no.1 and 2 and Ld. Adv. for the respondent no.3 is not present.

- 6.** Ld. Adv. for the appellant has argued that the order of the Ld. District Commission is not tenable in the eye of law. Ld. Adv. for the appellant has argued that the opponents have overcharged him by issuing the receipt of Rs.240/- instead of Rs.236/- for 5 days parking charges. He has drawn our attention to page 16 wherein, he has asked for the permission under Section 12(1)(c) of the Consumer Protection Act, 1986 to get remedy for the unfair trade practice done with the other consumers by the opponent. This permission was also granted by the Ld. District Commission on 22.07.2019.
- 7.** Ld. Adv. for the appellant has drawn our attention to condition no.14 (E) at page no.42 wherein, it clearly stated that the computerized coupons should be issued to the customers by the licensee of parking contract and if it is found that contractor is not issuing computerized coupons, the licensee will be fined on daily basis with an amount equal to the per day licenses fee for the number of days not issuing computerized coupons.
- 8.** He has argued that the Ld. District Commission has not considered the argument and documentary evidence on the record.
- 9.** Ld. Adv. Ms. Nehaben Bhatt for the respondent has contended that the order of the Ld. District Commission is just, fair and reasonable and correct in the eye of law and is not required to be interfered with. Further Ld. Adv. for the respondent has contended that the issue involved is of a very

small amount Rs.4/- that is why the matter should not be proceeded further and appeal is required to be dismissed.

- 10.** We have gone through the judgment and order passed by the Ld. District Commission, arguments advanced by the Ld. Adv. for both the parties and documentary evidence produced on record.
- 11.** We are of the opinion that the findings of the Ld. District Commission was that as case is of Rs.4/- only, hence it is disposed of as false and frivolous matter is unjust. The Ld. District Commission has taken a hasty decision without considering the issue involved in the matter as there is a debatable issue which is required to be adjudicated on merits. Further we are of the view that the finding of Ld. District Commission that the matter has taken more valuable time of commission and argued to linger the matter is not a good cause to reject the complaint.
- 12.** We have come to the conclusion that there is issue involved in the matter which needs to be adjudicated on merits. After considering all the arguments and documentary evidence on record, we are of the opinion that the order of the Ld. District Commission is not tenable in the eye of law. Therefore, the order of the Ld. District Commission is quashed and set aside and we hereby partly allow the appeal and pass the following order.

ORDER

- 1.** The appeal no.631/2022 is allowed and matter is remanded back before the Ld. District Commission, Ahmedabad (City) for fresh hearing.
- 2.** Both the parties are directed to remain present for further proceedings before Ld. District Commission on 21/08/2023.

3. The order of the Ld. District Commission, Ahmedabad (City) dated 25.08.2022 in complaint no.877/2019 is quashed and set aside.
4. Ld. District Commission is directed to heard the appeal on merits and dispose off according to law.
5. No order as to costs.
6. Registry is directed to send certified copy of this judgment to the parties free of cost.
7. Registry is further directed to send copy of this judgment to the District Commission Ahmedabad (City) through E-mail in PDF format for taking necessary action.

Pronounced in open Court today on 13th July, 2023.

[P. R. Shah]
Member

[M. J. Mehta]
President (Acting)