

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2975 OF 2009

M/S.SASARAM COLD STORAGE PVT.LTD.

Appella

nt(s)

VERSUS

BIHAR STATE ELECTRICITY BOARD & ORS.

Respond

ent(s)

O R D E R

In this appeal, the appellant calls in question the legal propriety of the decisions rendered by the National Consumer Disputes Redressal Commission (for short, "the National Commission") in Consumer Complaint No. 115 of 1998, by which the National Commission had declined to grant compensation damages to the appellant, which has suffered certain losses because of non-supply of electricity, consequence of which, the potatoes stored in its cold storage got damaged.

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On a perusal of the agreement between the appellant and the respondent-Board, we find clause which is relevant for the present purpose, reads as follows :-

"The Board shall furnish to the consumer and the consumer shall accept at the point of supply mentioned in the schedule hereto, on and from the date on which the said premises shall be connected with the

Signature Not Verified

Digitally signed by  
JAYANT KUMAR ARORA  
Date: 2016.08.17  
13:06:31 IST  
Reason:

supply distributing mains and during the continuance of the agreement at constant supply of electrical energy at the pressure of ...Volts, 50

alternating current system subject to standard variations as provided in Indian Electricity Rules, 1956 or any other statutory modification thereof as may be in force from time to time for the purpose and up to the maximum specified (hereinafter referred to as the contract demand) and under the conditions laid down in the Schedule :

Provided firstly that the supply of electricity as stipulated above may, with previous general or particular warning be regulated, curtailed, staggered, or cut off altogether by or on behalf of the Board if in the opinion of the Board or its Electrical Executive Engineer for the supply area concerned the power position or any other emergency in the power system warrants such course of action :

Provided secondly that the Board shall in no case whatsoever have any liability for any compensation to the consumer on account of failure in part or whole of supply of electrical energy."

The National Commission has relied on the last part of the clause to opine that the Board is not liable to pay compensation. In our considered opinion, when the language is absolutely clear that the Board would not be liable to pay any kind of compensation to the consumer on account of failure in part or whole of supply of electrical energy, the loss sustained by the appellant due to lack of supply of energy cannot be a ground for getting compensation. It is not permissible under the agreement. Therefore, we do not find any error in the approach of the National Commission.

Resultantly, the appeal, being devoid of merit, stands dismissed.

There shall be no order as to costs.

.....J.  
[ DIPAK MISRA ]

.....J.  
[ ROHINTON FALI NARIMAN ]

New Delhi;  
July 27, 2016.

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ITEM NO.105

COURT NO.4

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal No(s). 2975/2009

M/S.SASARAM COLD STORAGE PVT.LTD.

Appellant(s)

VERSUS

BIHAR STATE ELECTRICITY BOARD & ORS.

Respondent(s)

(with office report)

Date : 27/07/2016 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA  
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s) Mr. Randhir Singh Jain, Adv.  
Mr. Dhananjai Jain, Adv.

For Respondent(s) Mr. Mohit Kumar Shah, Adv.  
Ms. Shilpi Shah, Adv.  
Mr. Anand Kumar Singh, Adv.

UPON hearing counsel the Court made the following  
O R D E R

The appeal is dismissed in terms of the signed order.

Pending interlocutory applications, if any, are disposed of.

(Jayant Kumar Arora)  
Court Master

(H. S. Parasher)  
Court Master

(Signed order is placed on the file)