

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.9005 OF 2019
(Arising out of S.L.P.(Civil)No.1166 of 2018)

LUFTHANSA AIRLINES DEUTSCHE LUFTHANSA
AG & ANR. ...Appellants

Vs.

DANIELE BUSSONE & ANR. ...Respondents

O R D E R

Leave granted.

Heard learned counsel for the parties.

The respondents herein had filed a Consumer Complaint before the District Consumer Disputes Redressal Forum, Pune which was dismissed. The appeal filed before the State Consumer Disputes Redressal Commission Commission was dismissed because of non-appearance of the counsel. Thereafter the respondents herein filed a Writ Petition under Article 227 of the Constitution of India before the Bombay High Court. The High Court was of the view that since it was only for setting aside the order of dismissal in default, no notice was required to be issued to the present petitioners who were respondents before the State Commission.

We are not in agreement with the view of the Bombay High Court. Even the dismissal of a petition for default

creates some rights in favour of the persons in whose favour the order has been passed. Such order cannot be set aside without giving an opportunity of hearing to that person. The High Court erred in allowing the petition filed by the respondents without giving notice to the other side and without going into the merits of the petition.

We, therefore, without expressing any opinion on the merits of the case, set aside the impugned order and remit the matter to the High Court. The parties are directed to appear before the Registrar (Judicial) of the Aurangabad Bench of the Bombay High Court on 20th January, 2020.

The appeal is accordingly allowed.

We make it clear that it shall be open to both sides to take all pleas which are available to them as per law.

.....J.
[DEEPAK GUPTA]

.....J.
[ANIRUDDHA BOSE]

New Delhi;
November 25, 2019.

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

Petition(s) for Special Leave to Appeal (C) No(s). 1166/2018

(Arising out of impugned final judgment and order dated 10-01-2017 in WP No. 12695/2016 passed by the High Court of Judicature at Bombay, Bench at Aurangabad)

LUFTHANSA AIRLINES DEUTSCHE LUFTHANSA AG & ANR. Petitioner(s)

VERSUS

DANIELE BUSSONE & ANR. Respondent(s)

(FOR ADMISSION and I.R. and
IA No. 138982/2017 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT
IA No. 138984/2017 - EXEMPTION FROM FILING O.T.)

Date : 25-11-2019 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK GUPTA
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. Akhil Anand, AOR
Mr. Sanjeev Sharma,
Mr. Naman Singh Bagga, Adv.

For Respondent(s) Mr. Gaurav Agrawal, AOR
Mr. Girish Nayak Thingale, Adv.

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

Leave granted.

Heard learned counsel for the parties.

The appeal is allowed in terms of the signed order.

Pending applications shall also stand disposed of.

(ANITA MALHOTRA)
COURT MASTER

(PRADEEP KUMAR)
COURT MASTER

(Signed order is placed on the file.)