

Consumer Protection Act, 1986 – Dismissed in default – Second complaint- Maintainable – Whether a second complaint to the District Forum under the Consumer Protection Act, 1986 is maintainable when the first complaint was dismissed for default or non- prosecution? Yes. – The rule of prohibition contained in Order 9 Rule 9(1) [CPC](#) cannot be extended to the proceedings before the District Forum or the State Commission. The fact that the case was not decided on merits and was dismissed in default of non-appearance of the complainant cannot be overlooked and, therefore, it would be permissible to file a second complaint explaining why the earlier complaint could not be pursued and was dismissed in default – CPC O. 9 R. 9(1). *New India Assurance Co. Ltd. Vs. R. Srinivasan [(2000) 3 SCC 242]*, relied.

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