

**(2007) 05 NCDRC CK 0039**

**In the National Consumer Disputes Redressal Commission**

Anil Kumar Goyal

APPELLANT

Vs

KISHORI LAL SHARMA

RESPONDENT

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**Date of Decision :** 21-05-2007

**Acts Referred:**

**Citation :** 2008 3 CPJ 116

**Hon'ble Judges :** Bhanwar Singh , Vinod Shankar Chaubey J.

**Final Decision :** Appeal dismissed

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**Judgement**

1. -HEARD Mr. R.K. Gupta, learned Counsel for the appellant and Mr. Anil Kumar Goyal, Manager of Kuber Builders.

2. ACCORDING to the complainant, he deposited a sum of Rs. 50,000 in the local branch office of Kuber Builders at Muzaffarnagar. The Kuber Builders failed to repay the aforesaid amount of the complainant who then filed a complaint before the District Consumer Forum, Muzaffarnagar. The complaint was allowed and vide judgment in appeal it was directed that the opposite parties including the appellant shall pay Rs. 50,000 along with interest @ 18% p.a. to the complainant. Learned Counsel for the appellant has argued that the appellant was not served with the notice of the complaint and thus could not avail the opportunity to contest the proceedings. From a perusal of the judgment in appeal we find that the notice has been served on all the opposite parties including the appellant Anil Kumar Goyal, therefore, on the face of the clear-cut observation of the District Forum we find it difficult to accept the contention that the service of notice has not been effected upon.

The other argument submitted by learned Counsel for the appellant is that Anil Kumar was Manager of the Kuber Builders and since the money he received from the complainant was credited to their account, he himself is not liable to make any payment. The contention is devoid of merit as even as an employee of Kuber Builders the appellant owes his liability which is joint as well as several. As a matter of fact he was an agent of the Kuber Builders. It is also significant to note that the appellant has not filed on record before us any document to exclude his

liability. He has also not brought on record any document to indicate that as the Manager of Kuber Builders, he was not entitled to realise the commission for collecting deposits. The proof of his relationship with Kuber Builders has also not been filed. In the absence of such specific proof and on the face of admission that he collected Rs. 50,000 from the complainant we hold that the District Consumer Forum has rightly decreed the complainant's claim against all the opposite parties including the appellant. Merely because Kuber Builders issued a certificate exempting him from any responsibility, is not enough to absolve him from the liability towards the complainant. Such a certificate smacks of collusion between the two.

3. IN the result, the appeal being devoid of merit is liable to be dismissed. Accordingly, the appeal is dismissed. Appeal dismissed.