(2004) 07 NCDRC CK 0108

In the National Consumer Disputes Redressal Commission

C. VAMSHI KRISHNA — APPELLANT

Vs

MANAGEMENT OF KRISHNAM RAJU FINANCIERS — RESPONDENT

Date of Decision : 12-07-2004

Acts Referred:

Citation : 2004 2 CPC 634 : 2004 3 CLT 476 : 2004 4 CPJ 164 : 2005 1 CPR 55

Hon'ble Judges : I.Venkatanarayana , M.Shreesha J.

Final Decision : Appeal allowed

Judgement

1. COMPLAINANT is the appeLlant. Aggrieved by the order of the District Consumer Forum-II, Hyderabad in C.D. No. 802/2001 the present appeal has been filed.

2. THE brief facts as set out in the complaint are that the complainant deposited an amount of Rs. 10,000/- vide Certificate No. 2905 in the name of her minor grand-son in opposite party No. 2, Finance Company, of which opposite parties 2 and 3 are Directors. THE date of deposit is 30.7.1999 and date of maturity is 30.11.2002 and the maturity amount comes to Rs. 20,016/-. Subsequently, the company was closed and they were not paying the quarterly rate of interest. THE complainant got issued a registered notice to opposite party No. 1 and did not receive any reply and received information that the office was ceased by police and the postal department has endorsed accordingly. Hence he approached the District Forum seeking a direction for refund of the amount of Rs. 10,000/- with interest at 21% p.a. together with compensation of Rs. 10,000/- and costs of Rs. 2,000/-. The District Forum ordered substitute service on 7.8.2002 since notices were returned unserved on opposite parties 1 and 2 and on 25.9.2002 publication was filed and opposite parties were called absent. Thereafter, the complainant filed his affidavit.

The District Forum addressed itself to the issue and held that as per A.P. Protection of Depositors of Financial Establishment Act and Rules, 1999 which came into force on 1.11.1999, the Competent Authority to try cases of this nature is the Commissioner of Police, Hyderabad and Special Courts are constituted as per Section 6 of the said Act. Based on this observation, the District Forum directed the complainant to approach this Competent Authority and seek redressal.

3. AGGRIEVED by the said order, the complainant preferred this appeal. Notice sent to the respondents/opposite parties returned unserved and a paper publication was issued for appearance of respondents/opposite parties and none appeared. Since this is a case which is more than 3 years old, we deem it a fit case to decide on merits.

4. ON perusal of the records of the District Forum, we find that F.D.R. was issued by respondents/opposite parties to the appellant/complainant for an amount of Rs. 10,000/- dated 30.7.1999. The date of maturity being 30.11.2002 and the rate of interest was 21% p.a. and the maturity amount comes to Rs. 20,016/-. The appellant/complainant also has written a letter dated 4.5.2000 to the respondents/opposite parties requesting for payment of the maturity amount. ON 2.5.2000 she addressed a letter to the Deputy Commissioner of Police to initiate action for the amounts to be paid. Since default in repayment of principal amount and interest constitutes deficiency of service as per Consumer Protection Act, 1986. In the instant case having accepted the deposits and promised a good rate of interest and not refunding the principal amount or interest, the respondents/opposite parties have committed an act of deficiency of service. It was held by the Apex Court in I (2004) CPJ 1 (SC), that ''remedy under Consumer Protection Act, 1986 is in addition to and not in derogation of other remedies available and that wider remedies are available under this Act''. Keeping the facts and circumstances of the case in view, we are of the opinion that A.P. Protection of Depositors of Financial Establishment Act and Rules cannot give compensation whereas under Consumer Protection Act, 1986 compensation can be awarded over and above the direction to refund of deposits made. Taking into consideration the facts mentioned above and also the judgment of the Apex Court, we allow the appeal and set aside the order of the District Forum and direct the respondents/opposite parties to pay the appellant/complainant the matured amount under Fixed Deposit Receipt i.e., Rs. 20,016/- issued by them together with interest at 9% p.a. from the date of maturity till the date of realisation together with costs of Rs. 1,000/-. In the result, the appeal is allowed and the order of the District Forum is set aside by directing the respondents/ opposite parties to pay the appellant/complainant the matured amount under Fixed Deposit Receipt i.e., Rs. 20,016/- issued by them together with interest at 9% p.a. from the date of maturity till the date of realisation together with costs of Rs. 1,000/-. Appeal allowed.

