(1993) 06 NCDRC CK 0021

In the National Consumer Disputes Redressal Commission

KAMAL STEEL CORPORATION — APPELLANT

Vs

SINDURI CHIT FUNDS PVT.LTD — RESPONDENT

Date of Decision : 30-06-1993

Acts Referred:

Citation : 1993 3 CPJ 1661

Hon'ble Judges : S.A.Kader , R.N.Manickam , Ramani Mathuranayagam J.

Final Decision : Complaint allowed with costs

Judgement

1. THIS is a complaint under Section 17 read with Section 12 of the Consumer Protection Act.

2. THE complainant subscribed the chit in Group No. SC-20 conducted by the opposite party. He took it in auction on 28.4.92 at the 23rd auction for Rs. 2,36,000/- THE opposite party has not paid the amount. Hence this complaint. The contention of the opposite party is that the complainant did not submit proper sureties for due payment of the subsequent calls. It is also alleged that the complainant stood as surety to another subscriber and a large sum was due on that amount.

Exh. Al to A5 and B1 to B6 are marked by consent. Proof affidavits are filed. No oral evidence has been let in.

3. IT is not in dispute that the complainant has subscribed it the chit in Group No. SC-20 conducted by the opposite party. The total chit amount is Rs. 3 lakhs payable in 30 monthly instalments of Rs. 10,000/- each. The complainant was the successful bidder in the 23rd auction held on 28.4.92 for Rs. 2,36,000/-. As per the chit rules, the prize amount is payable within one month from the date of the auction on the successful bidder executing the promissory note and offering sureties for due payment of the sub-sequent calls. The Complainant has, executed a promissory note and offered 2 sureties namely M/s. Dowla Iron Mart and M/s. Dhoufig Steel Corporation but the opposite party did not therefore accept their surety. The question whether the sureties offered by the complainant

were sufficient or Act does not now arise for consideration, for the simple reason that this chit is now completely over. The complainant was taken up the price in the 23rd auction has to pay the sub-scription for the remaining 7 calls. IT is admitted before us for both the parties that the total amount payable by the complainant for the subsequent 7 calls after deducting the dividend comes of Rs. 64,000/-. There can be no objection to the opposite party paying he prize amount to the complainant after deducting the sum of Rs. 64,000/-. The second objection raised by the opposite party is that the complainant has stood as surety to another subscriber M/s. Steel King, and that the sum of Rs. 82,566.65 is due from M/s. Steel King and the complainant is liable therefor. It is therefore urged that without settlement of the amount due from M/s. Steel King the complainant is not entitled to claim the prize amount. This contention cannot be accepted. The opposite party is not entitled to with held the prize amount payable to the complainant or adjust the amount towards other dues. The remedy opened to the opposite party is to file a proper suit against the principle debtor M/s. Steel King and the sureties got a decree and provided against due to the complainant. It is also open to the opposite party to seek an attachment before judgment. But it cannot withheld the prize amount on that ground or seek to adjust it.

4. WE therefore hold that there was deficiency of service and negligence on the part of the opposite party in not paying the prize amount. The amount payable to the complainant is that prize amount of Rs. 2,36,060/- less Rs. 64,000/- being the amount due by the subsequent instalments is equal to Rs. 1,72,000/-. Thus amount is payable to the complainant with interest thereon at 18% from 28.5.92 which is the last date for the payment of the prize amount. In the result we order as follows: The opposite party shall pay to the complainant, the sum of Rs.1,72,000/- with interest thereon at 18% p.a. from 28.5.92 to till realisation. In our view claim for compensation for mental pain and agony is not sustainable. The opposite party shall also pay to the complainant the sum of Rs. 1,000/- towards cost. Complaint allowed with costs.

