(2001) 02 NCDRC CK 0026

In the National Consumer Disputes Redressal Commission

KANNA GANGADHAR — APPELLANT

Vs

KANNA DUBBAIAH — RESPONDENT

Date of Decision : 05-02-2001

Acts Referred:

Citation : 2001 2 CPJ 218

Hon'ble Judges : P.Ramakrishnam Raju , Mamata Lakshmanna J.

Final Decision : Appeals dismissed

Judgement

1. IN this batch of cases common questions are involved. Hence, they are disposed of by a common order. The complainants in all these cases deposited some moneys in Sri Venkateshwara Chits and Financiers which is a partnership concern and obtained certificates in token of receipt of the same. When they demanded for repayment they noticed that the business of the firm was closed. As such they approached the District Forum for recovery of their amounts deposited together with interest. All the partners were also added as parties.

2. THOUGH separate counters were filed by the opposite parties, the main objection seems to be that each partner has a definite share. Therefore, the liability cannot exceed that percentage. Before the District Forum the complainants examined themselves besides marking the deposit certificates and registered notices. The opposite parties also examined R.Ws. 1 and 2 and marked some documents like partnership deed, resolution dated 11.7.1987 and also plaint copies of the suits filed by the complainants. On the basis of the material available on record the District Forum found that there is deficiency of service on the part of the opposite parties and accordingly directed payment of the amounts deposited with interest. The said orders are questioned in these appeals.

The learned Counsel for the appellants submits that the deposit certificates must be signed by three Managing Partners and then only the firm of the partners shall be responsible, as per the deed of partnership, Ex. B-2 dated 11.6.1986 and the resolution, Ex. B-3 dated 11.7.1987. But the partnership deed, Ex. B-2 dated 11.6.1986 does not contain such a condition. Therefore, we are of the opinion that both the firm as well as the partners are liablo to repay the deposit amounts. If there is a resolution in Ex. B-3 stating that all the three Managing Partners should sign each deposit receipt it does -not matter, since it is not known to the public and as such the complainants are not expected to know of the said resolution. It is not the case of the opposite parties that the said resolution was made known to the complainants. The deposit certificates also do not contain any such condition.

3. THE next contention raised by the learned Counsel for the appellants is that each partner has only a fixed share and therefore, his liability cannot exceed the extent with limited share. In other words his contention is that the liability should be limited proportionate to the shareholding of each partner in the partnership firm. This is contrary to law. Each partner as well as the firm is jointly and severally liable for all the liabilities of the firm. It is finally contended that inasmuch as the complainants have filed suits for recovery of these amounts these complaints are not maintainable. But it is seen that the suits were filed much later when the complaints are pending in the District Forum. Therefore, we are not able to agree with the contention of the learned Counsel that these matters are subjudice. In view of the above discussion we do not find any ground to interfere with the orders passed by the District Forum. The rate of interest awarded by the District Forum is also reasonable. We do not, therefore, find any ground to interfere with the orders of the District Forum. The appeals, therefore, fail and they are accordingly dismissed. Time for payment six weeks. Appeals dismissed.

