(1997) 09 NCDRC CK 0045

In the National Consumer Disputes Redressal Commission

LML LTD APPELLANT

Vs

Ved Prakash RESPONDENT

Date of Decision : 16-09-1997

Acts Referred:

Citation : 1998 1 CPJ 121

Hon'ble Judges : A.P.Chowdhri , Desh Bandhu J.

Final Decision : Appeal allowed

Judgement

1. NEITHER me appellant nor the respondent appeared when this appeal came up for hearing. We have carefully gone through the records and proceed to dispose of the appeal.

2. MR. Ved Prakash, complainant for short, applied for 25 equity shares offered by M/s. LML Limited as right issue. The complainant was stated to have deposited Rs. 125/- in cash alongwith application for allotment with Bank of Tokyo Ltd., Sansad Marg, New Delhi. He failed to receive any allotment advice. He wrote four letters from September, 1992 to October, 1994 but failed to receive any reply. The complainant, accordingly/filed the complaint for a direction to the opposite party to allot 25 equity shares or pay the price thereof @ Rs. 135/- per share alongwith costs and compensation of Rs. 1.500/-. M/s. LML Limited, which was arrayed as opposite party, failed to appear. The complaint was allowed by order dated 29.9.1995 by District Forum-II directing the opposite party to issue 25 equity shares to the complainant and pay him Rs. 500/- as costs/compensation. Aggrieved by the order, the opposite party has preferred mis appeal. A reply has been filed by the respondent.

The first objection raised in the appeal is that the complaint filed in 1995 was barred by limitation. We find force in this objection. The cause of action, if any, arose in July, 1991 when the complainant submitted the application for the allotment of the shares. The complaint, having been filed in 1995, was barred by limitation. The authority cited by the appellant namely Omega Technical Pvt. Ltd. v. Central Bank of India & Anr., I (1995) CPJ 1 (NC) clearly applies and the

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/lml-ltd-appellant-hash-ved-prakash-...

complaint deserves to be dismissed on the ground of limitation.

3. THE second objection in the appeal is that until the allotment of shares the applicant applying for allotment remains only a potential investor and does not acquire the status of a ''consumer''. This is covered by the decision of the Supreme Court in Morgan Stanley Mutual Fund v. Kartick Das, II (1994) CPJ 7 (SC)=1994 (4) SCC 225. It has been stated in the reply that the application for allotment was submitted in the Bank of Tokyo, Sansad Marg, New Delhi along with a sum of Rs. 125/- and the Company should have taken up the matter with its banker. If the complainant had filed a complaint against the Bank, something could be said. THE Bank has not been impleaded. THE Company cannot be held liable for any deficiency as vis-a-vis the Bank. As the complainant is not a consumer in view of the decision of the Supreme Court the appeal must succeed. THE same is allowed and order of the District Forum is set-aside. As a result, the complaint stands dismissed. THE parties to bear their own costs throughout. A copy of this order be communicated to both the parties as well as District Forum-II. Appeal allowed.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/lml-ltd-appellant-hash-ved-prakash-…