

(1993) 04 NCDRC CK 0043

In the National Consumer Disputes Redressal Commission

REGISTRAR OF COMPANIES

APPELLANT

Vs

C. PULLAIAH SETTY

RESPONDENT

Date of Decision : 19-04-1993

Acts Referred:

Citation : 1993 3 CPJ 1418

Hon'ble Judges : A.Venkatarami Reddy , Venkateswara Rao , J.Ananda Lakshmi J.

Final Decision : Order set aside

Judgement

1. THE complaint was filed for a direction to the opposite parties i.e. the Registration of Companies and the Secretary, Tungabadhra Industries Limited for payment of Rs. 89.00 with interest thereon at the rate of 18% p.a. till the date of realisation and costs.

2. THE complaint came to be filed in the following circumstances : THE complainant is a share holder in Tungabadra Industries Limited. THE company declared dividend for the years 1972-73 and 1986 and the dividend to the complainant was due. As the complainant did not receive the dividend due to change of address for over a period of three years, the Tungabadra Industries send the amount of dividends to the Registrar of Companies under Section 205-A of the Companies Act. According to the complainant the amount of Rs. 89/- is lying in deposit with the first Opp. Party. Whereas according to the counter a sum of Rs. 59/- is lying with the first Opp. Party. It is not necessary for us to decide in this appeal the actual amount in deposit. In the complaint it was merely stated that a sum of Rs. 89/- towards dividend was due and it is lying with the first Opp. Party. No mention was made that the complainant at any time claimed the amount from the first Opp. Party by way of making an application in Form No. II in accordance with the Rule 6 of the Companies in paid dividend (transferred to General Revenue Account of Central Government) Rules, 1978.

The Opp. Parties mainly a opposed the complaint on the ground that the complainant has not applied to the opposite party No.1 in accordance with the

provisions of Section 205-B of the Companies Act, 1956 and in Form No. II in accordance with Rule 6 of the Companies unpaid dividend (transferred to General Revenue Account of Central Government) Rules, 1978 and therefore in the absence of any application, it cannot be said that there is deficiency of service. He also raised a contention that the remedy of the complainant is under the provisions of the Companies Act, 1956 and not under the Consumer Protection Act, 1986. Therefore, the District Forum has no jurisdiction to entertain the claim.

3. ALTHOUGH, elaborate counter was filed raising all these contentions, the District Forum without going into the same directed refund. Aggrieved by the same, the above appeal was preferred by the first Opp. Party. It is submitted by Shri B. Narayana Reddy, the learned Counsel for the Complainant that firstly, the complainant has not applied in Form No. II as mentioned above and on receiving such application under Section 205-B of the Companies Act, the Central Government may if satisfied whether such a person is entitled to the amount order such payment to the person the dividend due to him after taking such security from him as it thinks fit. Thus, it is evident that the complaint has to make an application for the Central Government for refund of the amount as required under the a foresaid section and the rules made there under. As the District Forum has not considered these objections, we set aside the order of the District Forum and remit the matter for consideration and to determine all the objections in accordance with law. In the meanwhile it is open to the complainant to file an application as required in Form No. II of Rule 6 of the Companies Unpaid Dividend (Transfer to General Revenue Account of Central Government) Rules, 1978 to the Central Government for refund of the dividend amount, and it is open to the Central Government to consider the claim and pass appropriate orders.

4. IN the result, the order of the District Forum is set aside and the matter is remanded back to the District Forum, Ananthapur to decide the matter afresh after considering the objections taken and after giving notice to the parties. Order set aside. _____