
(2000) 03 NCDRC CK 0006

In the National Consumer Disputes Redressal Commission

Santosh Agarwal

APPELLANT

Vs

P.C.S. INDUSTRIES

RESPONDENT

Date of Decision : 31-03-2000

Acts Referred:

Citation : 2000 2 CPJ 363 : 2000 3 CPR 376

Hon'ble Judges : S.C.Datta , Shilpi Majumder J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal is directed against order dated 21.4.1998 passed by CDF, Unit-I whereby the case of the complainant was dismissed on contest without cost.

2. THE petitioner applied for 50 Fully Convertible Debentures (FCD) in pursuance of Right issue thereof by opposite party Nos. 4 and 5. He got first call notice asking for payment of Rs. 4,500/- and Folio No. 825697 was allotted to him. He paid forthwith all the amounts with interest. THEREafter he received second and final call notices for Rs. 4,500/- which was also paid forthwith. As he did not get any certificate showing allotment and ownership of the FCD, he made enquiry. Ultimately, opposite party No. 1 through their letter dated 2.2.1998 informed him that the debentures had been transferred to one Ramesh Ch. Gupta (opposite party No. 2) and the same had been allotted to him. THERE-upon the petitioner lodged this complaint with the Forum praying for relief. The Forum on consideration of the materials on records comes to the conclusion that the dispute between the parties related to allotment of debentures and the present case is really a dispute for recovery of money. The Forum noticed that the petitioner has claimed a presumptive amount since he had never become the owner of the debentures in question. The Forum was of the view that the claim being in reality a money claim, the complainant should have approached the appropriate Civil Court for relief.

Feeling aggrieved, the complainant approached this Commission in appeal. According to the appellant the Forum was quite competent to determine the dispute.

3. IT appears that the debentures had not been allotted to the complainant. IT is admitted that the same had been allotted in favour of opposite party No. 2. The said opposite party No. 2 has not been made a party in the case before the Forum. On perusal of the materials on records it is evident that the dispute revolves round the question of allotment of debentures and the same having not been allotted in favour of the complainant, the latter has instituted this complaint claiming compensation. IT appears that the Forum has correctly held that the complainant might have approached the Civil Court for redress and the Forum lacked jurisdiction in the matter. We have given anxious consideration to the submission made by the parties and held that the appeal is without any substance and it is liable to be dismissed. Hence, the appeal is dismissed on contest, but without cost. Appeal dismissed.