
(1997) 08 RAJ CK 0031
In the Rajasthan High Court
Case No : Civil Writ Petition No. 5476 of 1996

Smt. Shanti Vijay

APPELLANT

Vs

Lan Exda Ind. Ltd. and Others

RESPONDENT

Date of Decision : 29-08-1997

Acts Referred:

Companies Act, 1956 — Section 621, 73, 73(2B)

Citation : (1998) 92 CompCas 116

Hon'ble Judges : J.C. Verma, J

Bench : Single Bench

Advocate : Padam Kumar Khetan, for the Appellant; S.C. Bhandari, for the Respondent

Judgement

J.C. Verma, J.—The grievance of the petitioner is that she had applied for purchase of the public shares from respondent No. 1, Lan Exda Industry, 201, II Floor, Babukhan Estate, Bashir Bagh, Hyderabad. She along with Meena Devi had sent an amount of Rs. 2,500 on May 26, 1993, for purchasing 200 shares each. The petitioner and Meena had also approached the consumer courts but it was held by the consumer court that disputes raised by the petitioner are not maintainable before the consumer court. The petitioner has filed the present writ petition for a direction to respondent No. 2 to initiate criminal proceedings u/s 621 of the Companies Act for proceeding against respondent No. 1 u/s 73(2B) of the Companies Act. It is stated that the petitioner had approached the SEBI as well in this regard but no action had been taken by the SEBI.

2. Written statement has been filed by respondent No. 2. Nobody appears on behalf of respondent No. 1, A reply on behalf of respondent No. 1 has also been filed. The plea taken by respondent No. 1 in the reply is reproduced as under :

"(5) Lan Inv. Pvt. Ltd. had in turn sent letter reference No. 30105780/29466327, dated August 10, 1993, to the complainant informing that she had been allotted 200 shares in LEIL upon payment of application money Rs. 2,500 and upon payment of allotment money at Rs. 2,500 against application for 200 equity

shares by the complainant will be transferred in his/her name by the original allottee being Lan Inv. Pvt. Ltd. ("LIPL"). (copy of letter enclosed as exhibit "B").

Despite repeated requests by Lan Inv. Pvt. Ltd. ("LIPL") the complainant did not forward the allotment money and did not return signed transfer deed, as required for effecting a transfer in her favour."

3. Counsel for the petitioner states that he had not been issued any share original or duplicate by the company for whose share the petitioner had applied and he is not interested in any duplicate shares of any other company.

4. The contention of the petitioner has force. If the petitioner had not been allotted the original shares, she was entitled to refund of the amount within the stipulated period of 78 days as held by the apex court in Raymond Synthetics Ltd. and others Vs. Union of India and others, It shall be appropriate in the present case that direction be issued to respondent No. 1 to refund the amount to the petitioner with interest at the rate of 15 per cent, from the due date till the payment.

5. Copy of this order be sent to respondent No. 2 by post by the registry.

6. The amount shall be refunded within two months.

7. Respondent No. 2 is also directed to take all necessary steps to assist the petitioner to get the refund.

8. The writ petition is disposed of at the admission stage with no order as to costs.

9. This decision shall not be taken as a precedent in future. This order is passed only in the present case.