
(2005) 12 NCDRC CK 0051

In the National Consumer Disputes Redressal Commission

SNEHA DYECHAM LTD.

APPELLANT

Vs

JYOTI RATHORE

RESPONDENT

Date of Decision : 14-12-2005

Acts Referred:

Citation : 2006 1 CPR 238 : 2006 2 CLT 352 : 2006 2 CPC 114 : 2006 2 CPJ 195

Hon'ble Judges : K.S.Gupta J.

Final Decision : Revision Petition dismissed

Judgement

1. PETITIONER company was the opposite party. Respondent/complainant pursuant to the scheme/offer floated by the petitioner, applied for 10,000 shares of the total value of Rs. 1,00,000. On 23.8.1997, the petitioner allotted 10,000 shares and on 10.9.1997 it also gave undertaking for repurchase of shares, to the respondent. It was alleged that in the month of September 1999, the respondent asked the petitioner to repurchase the said shares and to pay the profits accrued by that time on the shares. This request was followed by writing letters to the petitioner time and again but in vain. Thus, alleging deficiency in service, the respondent filed complaint claiming certain reliefs, which was contested by filing written version by the petitioner. It was alleged that if any undertaking as alleged by the respondent had been given by the promoters, the same is not binding on the respondent. Complaint was stated to be barred by limitations. It was further alleged that a reference had been made under Sick Industrial Companies (Special Provisions) Act, 1985 (for short the Act) and, therefore, complaint under Section 22 of the Act is not maintainable. The District Forum decided all these pleas against the petitioner and made direction to pay Rs. 2,44,300 with interest @ 12% per annum from 1.9.2002 and cost to the respondent. Dissatisfied with District Forum's order, the petitioner filed appeal which was dismissed by the State Commission by the order dated 5.9.2005. It is this order which is being challenged in this revision.

2. ONLY submission advanced by Mr. Ravindra Bana for petitioner is that the petitioner has since been declared "sick" by BIFR by the order dated 27.11.2005.

Reference was also pending before BIFR on the date the complaint was filed. In view of Section 22 of said Act, the District Forum should not have proceeded with the complaint and made the award which has been affirmed by the State Commission. In support of the submission, reliance was placed on the decision in Real Value Appliances Ltd. v. Canara Bank and Others., III (1998) CLT 1 (SC)=V (1998) SLT 220=(1998) 5 SCC 554. In my view, Section 22 of the Act does not place bar on hearing of a complaint filed under the provisions of Consumer Protection Act, 1986. Decision in Real Value Appliances Ltd.'s case has no applicability to the issue on hand. Submission referred to above is, therefore, repelled being without any merit. Orders passed by Fora below, do not suffer from any illegality or jurisdictional error warranting interference in revisional jurisdiction under Section 21(b) of Consumer Protection Act, 1986. Revision petition is, therefore, dismissed. Revision Petition dismissed.