

(2005) 04 NCDRC CK 0010

In the National Consumer Disputes Redressal Commission

V.VIJAYA LAKSHMI

APPELLANT

Vs

VIJAYA BHARGAVI CHIT FUND CO. LTD.

RESPONDENT

Date of Decision : 21-04-2005

Acts Referred:

Citation : 2005 0 NCDRC 77 : 2005 2 CPC 189 : 2005 2 CPR 54 : 2006 1 CPJ 153

Hon'ble Judges : M.B.SHAH , RAJYALAKSHMI RAO J.

Advocate : PRAKASH CHAKRAVARTHI

Judgement

1. THIS revision petition is filed against the order dated 1.8.2001 passed by the State Consumer Disputes Redressal Commission, Andhra Pradesh, in First Appeal No. A-295 of 2001, whereby the State Commission allowed the appeal and set aside the order of the District Forum. Hence, the original complainants are the present revision petitioners. Brief facts of the case are: The complainant No. 1, Smt. V. Vijaya Laxmi, No. 2, Shri V. Anil Kumar and No. 3 Shri V. Parwatha Lingam filed complaint in the District Forum against the opposite party No. 1, Branch Manager of Vijaya Bhargavi Chit Fund Co. Ltd., Hyderabad and Managing Director Shri Basava Rao of the company as O.P. No. 2 for deficiency in service relating to the settlement of their chit claim. The complainants alleged that the opposite parties had given an assurance that the chit amount would be paid in the_ second month after joining and on that basis, they joined five chit funds of Rs. 4 lakh each. The duration of each chit was 40 months and the subscription amount payable was Rs. 10,000 p.m The first complainant paid Rs. 40,000 and the second complainant paid Rs. 60,000." The second complainant became the highest bidder in the bid held in October, 1996 for an amount of Rs. 2,40,000 The opposite parties allegedly deducted Rs. 52,850 and paid the balance amount of Rs. 1,87,150 only. The complainants alleged that the deduction of Rs. 52,850 was unauthorized and has resulted in loss of confidence in the opposite parties and, therefore, the complainants had stopped payment for further subscriptions and demanded the opposite parties for refund of the amount paid by them. It is alleged that there was no response from the O.Ps. and hence they had no

alternative but to approach the District Forum. The District Forum by referring to Clauses 17 and 20 of the A.P. Chit Funds Act, directed the opposite parties to pay to the complainants the balance of the sum of Rs.1,44,000 after deducting Rs. 7,200 (for a four months" commission at 5%), i.e., Rs. 1,36,800 with interest @ 12% p.a. from 1.11.1996 till the date of payment.

2. AGGRIEVED by the said order, the opposite parties filed an appeal in the State Commission. The State Commission dismissed the complaint and allowed the appeal placing reliance on Sub-section (4), Clause 15 of chit agreement which reads as under: "A subscriber removed from the chit before termination, for any reason, is entitled for a refund of only the net amount of subscriptions, deposited by him/her less five percent of the chit value towards damages for breach of contract. The refund will be made after the substituted subscriber draws the prize amount or at the close of the series whichever occurs first."

The State Commission held that when a subscriber is removed from the chit before termination he is entitled to refund the net amount of subscriptions deposited by him less 5% of the chit value and that the refund will be made only after a substituted subscriber draws the prize amount or at the close of the series whichever occurs first. It is also held that the opposite parties are entitled to deduct 5% of the net amount of subscriptions and not 5% of the subscriptions and the first complainant is entitled to the balance. According to the Sub-clause 15, it is also clear that his amount would be paid either at the end or the close of the series or when a substituted subscriber draws the prize amount whichever occurs first.

3. WE have perused the records and heard the parties. During the course of arguments it is brought out that complainant No. 2, Mr. Anil Kumar, subscriber of Chit No. MT-02SA-09 did not pay a single instalment after drawing the prize amount in November, 1996 and a suit has "been filed by the opposite parties for the same. The opposite parties further contended that the decretal amount of Rs. 3,32,366 could not be recovered till date although attachment orders have also been obtained for the same. This aspect has not been brought out by Mr. Parwatha Lingam and Others in their complaint or in their arguments. It has been brought to our notice that complainants are fully aware of the chit fund business and they are actively involved in management of another chit fund company and are aware of all the clauses of chit fund schemes and the proceedings. Complainants cannot plead innocence after taking the chit money and file the complaint. In fact, opposite parties have been put to loss due to unethical behaviour of the complainants. We do not find that there is any case of deficiency in service on the part of the opposite parties. Accordingly, the order of the State Commission is affirmed and appeal is dismissed. No order as to costs.