

The Manager, Shriram Chit Private Ltd. and Others Vs. Sasi Traders, Rep.by Its Partner

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Court : Tamil Nadu State Consumer Disputes Redressal Commission SCDRC Chennai

Decided On : Sep-02-2013

Judge : The Honourable Mr. a.K. Annamalai, Presiding Judicial Member & the Honourable Mr. S. Sambandam, Member

Appeal No. : F.A.No. 888 of 2010

Appellant : The Manager, Shriram Chit Private Ltd. and Others

Respondent : Sasi Traders, Rep.by Its Partner

Judgement :

(The Respondent is the complainant filed a complaint before the District Forum against the opposite parties praying for the direction against the opposite parties to repay the deducted amount of Rs.1,96,066/-with interest and to pay Rs.1,00,000/- as compensation for hardship, loss and to pay Rs.5000/- as costs. The District Forum allowed the complaint. Against the said order this appeal preferred by the Appellants / opposite parties praying to set aside the order passed by the District Forum in CC.No.63/2005 dated 12.08.2010.

This appeal coming before us for hearing finally on 01.8.2013, upon hearing the arguments on either side, perusing the documents, lower court records, and the

order passed by the District Forum, this commission made the following order.

A.K. Annamalai, Presiding Judicial Member

1. The opposite parties are the appellants.

2. The Respondent / complainant enrolled for the chit group in Chit.No.189/03 with the 3rd opposite party for the monthly subscription of Rs.20,000/- and paid Rs.1,60,000/- on 10.7.2004 in group No.89001 and paid chit amount of Rs.17,267/- on 26.7.2004 and Rs.16,627/- on 21.8.2004. The 3rd opposite party did not informed the successful bidder immediately. Only after 3 months the 3rd opposite party informed the same being the complainant was a successful bidder for Rs.1,40,000/-. The 3rd opposite party deducted Rs.53,966/- and issued a cheque for Rs.1,72,217/- on 30.10.2004 and dispatched belatedly on 15.11.2004 and thereby misusing the amount of the complainant. Due to the above deficiency the complainant incurred a loss of Rs.3,44,434/-. Hence he filed a complaint praying to return the deducted amount of Rs.1,96,066/- with interest and to pay Rs.1,00,000/- as compensation for mental agony and to Rs.5,000/- as costs.

3. The opposite parties questioning the jurisdiction as well as the allegations by contending that the complaint is bad for misjoinder and nonjoinder of necessary parties since the chit was subscribed at Neyveli. The complainant paid chit amount for the 13th auction held on 21.8.2004 for Rs.1,40,000/- with the prize money of Rs.4,60,000/- and due arrears to the tune of Rs.18,466/- towards 13th and 14th installments after deducting the sum of Rs.60,000/- as for the chit to covers the future liability as per the letter given by the complainant towards 13th balance to 16th installments dues for Rs.53,966/- the amount was intimated after the bid the complainant failed to pay further subscriptions and thereby enforced the lien, a sum of Rs.65,038/- being the maturity amount of the Fixed deposit towards 17th to 20th dues were adjusted. The complainant joined in the middle of the chit and paid the amount from 1st to 11th instalments in one lumpsum and thereafter paid till 13th instalment and the cheque was dishonoured and the security required was furnished only in October 2004. There was delay in sending the prize money only on 30.10.2004. There was no deficiency in service on the part of the 3rd opposite party.

4. We have heard both sides rival contentions and considered the documents and materials placed before us. The complainant admittedly joined the chit group of the 3rd opposite party at Neyveli branch and contended in the complaint that he had approached the 4th opposite party being the branch at Shriram chit at Tiruvallur and on the recommendation of the 4th opposite party said to have joined in the chit group of the 3rd opposite party and the 1st and 2nd opposite parties are controlling officer of the 3rd opposite party and 4th opposite party are added as parties for the purpose of cause of action. The complainant has added Opposite parties 1 and 2 as misjoinder of parties. The opposite parties 1 and 2 are the controlling authorities for the 3rd and 4th opposite parties, they are only a formal parties for the purpose of adjudication and the complainant has sought for relief in general against all, the opposite parties even though mentioning in para 7 of the complaint the cause of action arose on 10.07.2004, 26.11.2004 against the opposite party No.4 the appellants / opposite parties contended in the grounds of appeal that the District Forum, Tiruvallur has no jurisdiction and the complainant failed to furnish sufficient sureties. When the transaction was only with the Neyveli Branch, for which the Tiruvallur District Forum is not having territorial jurisdiction. This fact is an acceptable one and it cannot be denied by the complainant and from the averments of the complaint it is clear in order to invoke the jurisdiction of Tiruvallur District Forum, the 4th opposite party was added as a party and actually no transaction was made with the 4th opposite party except the oral plea that the 4th opposite party introduced the 3rd opposite party. Further the complainant did not aver how that the 2nd opposite party having Head quarter at Pondicherry got jurisdiction to entertain the complaint against them. Hence, the plea of the opposite parties / appellants that the complaint suffered by nonjoinder and misjoinder of necessary parties regarding the chit transaction. It is the case of the opposite parties that the complainant joined the chit groups for the value of Rs.6,00,000/- in the middle of chit group only at the 11th subscription by paying Rs.1,40,000/- in one lumpsum and having bid prized chit in the 13th auction held on 21.08.2004 leaving subscription arrears of Rs.18,466/- towards 13th instalments and after deducting those instalments, at the request of the complainant only the balance prize money was disbursed belatedly and thereby the opposite parties claimed that there was no deficiency in service. For this

contention the complainant not satisfactorily explained the same by way of documentary evidence that there was delay in disbursing the chit amount and deducting of other amount regarding the deduction of Rs.53,966/- and also making a lien amount of Rs.60,000/- without consent of the complainant by the opposite party in acceptable manner and thereby we are of the view that there was no deficiency of service of the opposite parties, since the complainant himself was in defaulter in performing the chit transactions and thereby the complaint against the opposite parties cannot be entertained. The appellant relied upon the ruling reported in III (2005) CPJ 16 in the case of K.S.Murugaiyan vs- S.R.Selvaraj and Anr in which it was observed as follows:

Consumer Protection Act, 1986 Section 15 Agreement Vehicle purchased Original documents not delivered Balance amount not paid Breach of agreement pleaded, remedy in Civil Court Entire sale consideration not paid Complainant not consumer Complaint not maintainable, wrongly allowed by Forum-Order setaside in appeal.

and the complaint is already suffered by misjoinder of necessary parties and thereby the complaint is liable to be dismissed and the District Forum without going to the preliminary objections raised by the appellant regarding the same and question of jurisdiction and gone to the merits of the case erroneously allowed the complaint and the same is liable to be dismissed in view of the foregoing discussions and reasons stated above and thereby this appeal is to be allowed by setting aside the order of the District Forum.

In the result, the appeal is allowed by setting aside the order of the District Forum in CC.No.63/2005, dated 12.08.2010 and the complaint is dismissed.

No order as to costs in the appeal.

Registry is directed to discharge the FDR with accrued interest in favour of the appellants/ opposite parties.

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