

Selvakumar Vs. Adhilakshmi and Another

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Court : Tamil Nadu State Consumer Disputes Redressal Commission SCDRC
Chennai

Decided On : Sep-20-2008

Judge : Hon'Ble Thiru Justice N. Kannadasan, President Thiru Pon. Gunasekaran
B.a.,B.L., Member - I

Appeal No. : A.P.NO.639 of 2005 (Against order in O.P.No.124 of 2003 on the file
of the DCDRF, Cuddalore)

Appellant : Selvakumar

Respondent : Adhilakshmi and Another

Judgement :

N. KANNADASAN J. (Open Court)

1. The appellant is the 1st opposite party before the District Forum. 1st Respondent is the complainant and the 2nd respondent is the 2nd opposite party before the District Forum.

2. The complainant approached the District Forum seeking relief to the effect that even though the Fixed Deposit amount, which is lying in the hands of the 2nd opposite party, wherein it is indicated that the Fixed Deposit is under the category former or survivor; and she being the former, she was not paid the money. According to the complainant, since the 2nd opposite party has failed to disburse the amount, she alleged deficiency in service on the part of the 2nd opposite party

and approached the District Forum.

3. The complaint was resisted by the 1st opposite party to the effect that a Civil Suit is pending on the file of the Munsiff Court, Panruti in OS No.210/2002, and the order of injunction is in force, and unless the Civil Court renders finding, the amount should not be disbursed.

4. The 2nd opposite party took a stand that in view of the pendency of the litigations, they are not in a position to disburse the amount.

5. The District Forum proceeded with the matter and allowed the complaint as stated therein, against which the appeal is filed.

6. Though notice is served upon the complainant, she has not engaged any counsel and hence the commission has engaged Mrs. K.P.Kiran Rao as amicus curiae, who has rendered her valuable assistance to the court.

7. It is not in dispute that the civil suit is pending and the District Forum has made observations in paragraph 2 of the order to the effect that order of injunction is in force. In as much as the order of injunction is in force, the District Forum by placing reliance upon the decision reported in AIR 1983 SC 1272, held that the District Forum cannot be restrained from proceeding with the matter.

8. In our opinion, the decision relied upon by the District Forum is not applicable to the facts on hand. Admittedly, the order of injunction is in force, even according to the findings of the District Forum. Once an order of injunction is in force, one cannot expect the 2nd opposite party viz. the Bank to disburse the amount to the complainant. The decision relied upon by the complainant is only with regard to the jurisdiction of the Consumer Forum viz. the jurisdiction of the Civil Court. In this case, when the bank has confronted with the order of injunction, it cannot be considered that there is deficiency on the part of the bank in non-disbursement of the amount to the complainant. Hence the appeal is allowed, and the order of the District Forum is set aside. However, liberty is given to the respective parties to approach the appropriate Forum, including the Consumer Forum, subject to the result of the Civil Court.

9. In the result, the appeal is allowed.

10 Mrs. K.P.Kiran Rao, Amicus Curaie, is entitled for a sum of Rs.3000/- towards remuneration. The Registry is directed to pay the amount forthwith.

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