

Pol Securities Limited and Others Vs. Ashok Kumar and Others.

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Court : Delhi State Consumer Disputes Redressal Commission SCDRC New Delhi

Decided On : Jan-16-2008

Judge : J.D. Kapoor, President & the Honourable Ms. Justicerumnita Mittal, Member

Appeal No. : Appeal No. 07 of 914

Appellant : Pol Securities Limited and Others

Respondent : Ashok Kumar and Others.

Judgement :

J.D. Kapoor, President (Oral):

1. There is serious dispute as to the genuineness of the signatures of the appellant on the share transfer deed submitted with the appellant resulting in the impugned order dated 5.11.2007, giving following direction to the appellant:

(1) To refund a sum of Rs. 1,50,000 with interest at the rate of 9% from 18.7.1996 till realisation to the complainant. No. 1.

(2) To refund a sum of Rs. 2,00,000 with interest @ 9% from 18.7.1996 till realisation to complainant No. 2.

(3) To refund a sum of Rs. 1,50,000 with interest @ 9% from 18.7.1996 till realisation to complainant No. 3.

(4) To pay a sum of Rs. 5,000 as compensation to each complainant.

(5) To pay a sum of Rs. 5,000 consolidated as cost of litigation.

2. It is pertinent to mention at this stage that the appellant had suffered similar order earlier which is dated 23.8.2006 and filed an appeal against the said order. Vide order dated 10.4.2007, this Commission allowed the appeal and sent back the matter to the District Forum for deciding it afresh after affording opportunity to the appellant for producing Hand Writing Expert and to decide the matter in just and fair manner.

3. Unfortunately the appellant could not produce the share transfer deed during the proceedings and with great effort succeeded in locating share transfer deed and made application to the District Forum by placing this on record and for getting opinion of the Hand Writing Expert. The District Forum had reserved the order and pronounced the same without getting opinion of the Hand Writing Expert.

4. Once the appellant had made an application for getting signatures examined from the Hand Writing Expert, it was incumbent upon the District Forum to allow the said application in spite of its having been made at belated stage but before pronouncement of the order.

5. The District Forum should have at least kept our observations in mind while deciding the matter finally that we had sent back the matter for affording opportunity to the appellant for getting opinion of the Hand Writing Expert and decide the matter afresh in just and fair manner. Fair and just decision is of more significance than the stage of the case at which the party seeks remedy for such decision.

6. Foregoing reasons persuade us to allow the appeal at the outset, set aside the impugned order and send back the matter to the District Forum for deciding it on merit after obtaining opinion of the Hand Writing Expert either through the appellant or on its own.

7. We may observe that it is not necessary that party should always apply for examination of document by Hand Writing Expert. It is also the duty of the District Forum to get such an opinion if there are allegations made by the party as to the genuineness of the signatures for just and material adjudication of the dispute. District Forum shall decide the matter preferably within three months.

8. Bank Guarantee/FDR, if any, furnished by the appellant be returned forthwith.

9. A copy of this order as per the statutory requirements be forwarded to the parties free of charge and also to the concerned District Forum and thereafter the file be consigned to Record Room.

Appeal allowed.

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