

Pradeep Kumar and Others Vs. T.V. Sudhakaran and Others

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Court : Kerala State Consumer Disputes Redressal Commission SCDRC
Thiruvananthapuram

Decided On : Jan-31-2014

Judge : P.Q. Barkath Ali, President & the Honourable Mr. V.V. Jose, Member

Appeal No. : First Appeal Nos. 276 of 2013 & 277 of 2013 (Arisen out of Order Dated 19/12/2012 in Case No. 28/2009 of District Kasaragod)

Appellant : Pradeep Kumar and Others

Respondent : T.V. Sudhakaran and Others

Judgement :

P.Q. Barkathali: President

Both these appeals arise out of a common order in CC.28/09 and CC.29/09 dated, December 19, 2012 of CDRF, Kasaragod. As both these appeals arise out a common order these appeals are disposed of by a common judgment.

2. In both these appeals, opposite parties 6, 7, 9, 10, 11, 12, 13, 16, 17 and 18 are the appellants. Appeal No.276/13 is directed against order in CC.28/09 and Appeal.277/13 is directed against the order in CC.29/09. First respondent in both these appeals are the complainant. Respondents 2 to 8 are the other opposite parties before the Forum.

3. The case of the 1st respondent/complainant in both these cases and as testified by him as PW1 before the Forum in brief is this:-

He joined in a chitty conducted by opposite parties 1 to 15. Total chitty amount of maturity was Rs.1,05,000/- in each case. He joined in the chitty on June 2006 and paid 10 monthly instalments of Rs.5000/- each totaling to Rs.50,000/- in both these chitties. Subsequently the chitty collapsed. Opposite parties 1 and 2 absconded. Later police arrested them. The complainant claimed amount deposited by him with interest and compensation.

4. First opposite party is the President, Vairajathan Easwaran Kshethra Committee. Third opposite party Sri. C.V.Renjith is its treasurer. They filed joint version contending that they have not conducted any chitty as alleged by the complainant. According to them some amounts were received as donation for making a temple and Kalyana Mandapam, old age home and school building and that due to some financial constraint and due to payment of income tax they were not able to proceed with the said project. They prayed for the dismissal of the complaint.

5. Second opposite party, Shri.V. Subramanyan filed version before the Forum stating that he was never the member of the committee. He further stated that first opposite party was the President and one Balachandran was the Secretary. According to him he was working as a clerk for a temporary period on daily wages with the first opposite party, Balachandran and he had no connection with the committee.

6. The fourth opposite party, President, Vairajathan Easwaran Kshethra Committee was absent and set exparte by the Forum. Opposite parties 6 and 9 Shri.Pradeep Kumar and Shri.P.V.Prabhakaran respectively filed a joint version stating that they have no connection with the Kshethra Committee.

7. Opposite parties 7, 10, 11 and 13 also filed the joint version denying their connection with the Khethra Committee. The 12th opposite party has also in his version denied his connection with the Kshethra Committee.

8. The 5th opposite party expired during the pendency of the complaint. His legal heirs were impleaded as opposite parties 16 to 18. They have also in their version denied their connection with the Kshethra Committee.

9. Opposite parties 4, 8, 14 and 15 remained absent and were set exparte by the Forum.

10. Both these complaints were jointly tried by the Forum as complainant and opposite parties in both these cases were the same and common questions were involved.

11. Complainant was examined as PW1 and Exts.A1 to A3 were marked on his side. Opposite parties 12, 6 and 9 were examined as DWs 1 to 3 and Ext.B1 was marked on their side. Opposite parties 7, 10, 11 and 13 filed joint proof affidavit and marked Exts.B2 on their side. On the side of the 12th opposite party Exts.B3 and B4 were marked. On an appreciation of evidence the Forum found that opposite parties are members of the Kshethra Committee and allowed the complaints against opposite parties 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12,13 and 14. Opposite parties 3, 16, 17 and 18 were exonerated from personal liability. They were directed to pay to the complainant Rs.50,000/- in each complaint with interest at 9% per annum from the date of complaint till payment and cost of Rs.3000/- each. Opposite parties 6, 7, 9, 10, 11, 12, 13, 16, 17 and 18 have come up in appeal challenging the said order of the Forum. In this appeal first respondent/complainant appeared in person. Notice to respondents 3, 4 and 8 returned unserved. Notice to 7th respondent was returned unclaimed.

12. Heard the counsel for the appellants and the complainant.

Following points arise for consideration:-

1. Whether the appellants have any connection with the Kshethra Committee?

2. Whether the impugned order of the Forum can be sustained?

13. The first question for consideration is whether the appellants have any connection with the Vairajathan Easwaran Kshethra Committee Exts.B1 bye-law

produced by the opposite parties prove beyond doubt that they are the members of the said Kshethra Committee. Opposite parties 5 to 14 would content that first opposite party has forged their signatures and created the bye-law Ext.B1. But admittedly they have not filed a criminal complaint against the first opposite party. Opposite party No.12 filed criminal complaint only after he was cross-examined by the complainant before the Forum. Therefore Forum is perfectly justified in coming to the conclusion that they are the members of the Kshethra Committee. Ext.A1 chitty passbooks shows that complainant had paid 10 instalments of Rs.5000/- each in each chitty which they are bound to repay. Therefore we are of the view that Forum is perfectly justified in allowing the complaints. The finding of the Forum on this point is confirmed.

14. The Forum has found that opposite parties 1 to 14 except 3rd opposite party are liable and directed them to pay Rs.50,000/- in each complaint to the complainant with interest at 9% per annum from the date of complaint till payment and cost of Rs.3000/- in each complaint. As the 5th opposite party expired his legal heirs ie opposite parties 16 to 18 and 3rd opposite parties were exonerated from personal liability. We find no ground to interfere with the said finding of the Forum.

In the result we find no merit in these appeals and these appeals are dismissed with a cost of Rs.5000/- in each appeal.

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