
(2000) 06 NCDRC CK 0016

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

R.RAJAGOPAL

APPELLANT

Vs

RBF NIDHI LIMITED

RESPONDENT

Date of Decision: June 14, 2000

Citation: 2000 3 CPJ 289

Hon'ble Judges: M.S.Janarthanam , S.P.Sivaprakasam , Banumathi Baskaran J.

Final Decision: Complaint rejected in limine

Judgement

1. THIS action has come up for admission before us today. The complainants are one R. Rajagopalan, a Public Sector Employee (Retired) and one R. Sakunthala, his wife. They are residing at 19/15, Raja Street, RAMS Flat, T. Nagar, Chennai-17.

2. THE opposite party is RBF Nidhi Limited, 8, West Cott Road, Royapettah, Chennai-14.

The complainants, it appears, invested their provident fund, gratuity and other savings in the fixed deposit scheme of RBF Nidhi Ltd., at T. Nagar Branch of the Nidhi for varying periods. All the deposits, it is said, got matured in September, 1999 and earlier but the Nidhi failed to pay the matured deposits amounting to a total of Rs. 9,23,363/- [Rs. 5,62,396/- to complainant (1) and Rs. 3,60,967/- to complainant (2)] on the due dates, in spite of several personal visits and letters to the registered office and branch office of the said Nidhi.

After repeated visits by the complainants, the Company issued post-dated cheque for all short term matured deposits and one year deposits matured before 5.9.1999 payable after 4, 5 and 8 months from the date of maturity without any interest for

the period of delay. Even before the cheques were presented for payment on due dates, the Nidhi issued separate letters requesting the complainants not to present the cheques for payment due to tight financial position. The failure of the Nidhi the opposite party to repay the deposits on due dates of maturity and failure to honour the cheques issued by them, amounts to deficiency in service on their part as defined in Section 2(1)(g) of the Consumer Protection Act, 1986 [for short, "the Act"].

3. ALLEGING the factors above the complainants knocked at the doors of this Commission for certain reliefs as prayed for in the complaint.

The complainants did not engage a Counsel of their choice. Complainant No. 1, namely Mr. R. Rajagopalan represented himself as well as his wife R. Sakunthala. We gave him adequacy of opportunity to put forth his hues of views in this action. Accordingly he did so.

4. WE also perused the averments in the complaint as well as the connected documents filed alongwith the complaint.

Even at the outset, we may point out that the opposite party RBF Nidhi Ltd., issued a Public Notice in the newspaper "Hindu" dated the 1st day of February, 2000. The public notice is captioned as "For the Attention of All Depositors : The Present Situation". The public notice so issued reads as under :

"* Recently all the working directors of the RBF Nidhi Ltd., were arrested by the police based on complaints from the depositors. * The offices of the RBF Nidhi Ltd., were sealed and, therefore, the offices were not functioning. * The Company Law Board by their order superseded the Board and appointed the following directors. The new directors of the Board are : Sri A.R. Rao (Chairman), A.M. Swaminathan, N.R. Sridharan, K.J. Pappachan, R. Desikan, Arvind Datar and R. Rudrakumar. * The new Board of Directors met on 29th January, 2000. All the Board members were present. * The following decisions were taken unanimously by the Board of Directors : (1) Initiate action immediately on 31.1.2000, to take over the assets of the Nidhi. This will be following by starting and functioning of the offices. (2) Review the status of every borrower of the Nidhi and take all steps to recover all the loans given by the Nidhi. (3) As required, the Board of RBF Nidhi Ltd., will submit a scheme of

repayment of the deposits to the Company Law Board under Sections 45QA of RBI Act/58A of the Companies Act, 1956. The Board expects to complete this exercise much before 31.3.2000, the deadline given by the Company Law Board. (4) All recovered monies from the borrowers will be deposited with a scheduled Bank. No money will be lent. (5) About the time of police action several depositors were paid interest for the month of November, 1999; some have not been paid. All those who did not receive the interest for the month of November, 1999 will be paid first as soon as the approval of the scheme submitted by the new Board is received from the Company Law Board. (6) Hon'ble High Court of Madras has created the right atmosphere for collection of dues from borrowers of the Nidhi. Many of the borrowers have already expressed their desire to repay their loans. Therefore, concerted action will be taken by the Board to collect the loans as quickly as possible. An appeal to all the Depositors All the depositors of RBF Nidhi Ltd., are requested to co-operate with the new Board and not panic or assemble at the offices of the Nidhi. Such action will only adversely affect the functioning of the offices and the Board. The Board would like to devote all its time to pursue the collection from the borrowers as quickly as possible. Therefore, while appreciating the anxiety of the depositors, they are requested to be patient. During this critical time all depositors are requested to continue to be patient and co-operate with the Board. The Board will issue periodical announcements about the status of the Nidhi to keep the depositors informed in a transparent manner. As soon as the Company Law Board approves the scheme of repayment of Depositors, the Board will strictly following the scheme. All the depositors are requested to be patient till then and await the announcement of the Board. Issued by the order of the Board of Directors of RBF Nidhi Ltd., at Chennai on 29th January, 2000. A.R. Rao Chairman"

From the public notice as issued by RBF Nidhi Ltd., the opposite party in the newspaper "Hindu" as above extracted, it is rather crystal clear that matters pertaining to the said Nidhi are seized of by the Company Law Board and the High Court of Judicature, Madras. Such being the case, the complainants cannot at all expect the same subject-matter to be dealt with by the Commission by entertaining the complaint they have filed. Axiomatic a proposition of law it is if the subject-matter sought to be agitated before the Commission is seized of by Courts or other Forums, the Commission or the Fora constituted under the Act will automatically get ousted of jurisdiction to entertain such matters.

5. IN this view of the matter, the complaint as filed is rejected in limini directing the complainants to seek reliefs in accordance with law in the competent Forum. Complaint rejected in limine.