

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2336 OF 2010

YOGESH AGGARWAL

APPELLANT(S)

VERSUS

M/S. ANEJA CONSULTANCY
(A PART OF ANEJA GROUP) & ORS.

RESPONDENT(S)

O R D E R

The challenge in the present appeal is to an order passed by the National Consumer Disputes Redressal Commission (in short 'NCDRC') on 04.01.2010 whereby the appellant was saddled with the liability to pay the amount of certain cheques signed by him along with interest at the rate of 9% p.a.

The appellant has raised two-folds arguments before this Court, firstly, the Investor Forum Aneja Group could not have invoked the jurisdiction of the NCDRC in view of the fact that a complainant in terms of Section 2(1)(b) of the Consumer Protection Act, 1986 (in short 'the Act') means either a consumer or any voluntary consumer association registered under the Companies Act, 1956 or under any other law for the time being in force. One or more consumers, where there are numerous consumers having the same interest, can also file a complaint but with the permission of the District Forum invoked in terms of Section 12(1)(c) of the Act. The relevant provision of the Act reads as under:-

"2. Definitions. - (1) In this Act, unless the context otherwise requires, -

(b) "complainant" means -

- (i) a consumer; or
- (ii) any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or under any other law for the time being in force; or
- (iii) the Central Government or any State Government; or
- (iv) one or more consumers, where there are numerous consumers having the same interest;
- (v) in case of death of a consumer, his legal heir or representative; who or which makes a complaint;

12. Manner in which complaint shall be made.-(1) A complaint in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum by -

(a) *****

(b) *****

(c) one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum, on behalf of, or for the benefit of, all consumers so interested; or

*****"

The complainant before the NCDRC is neither a voluntary consumer association registered under the Companies Act, 1956 nor under any other law for the time being in force. As per Mr. Palli, learned Amicus, the complaint is maintainable on behalf of the numerous consumers having the same interest in terms of clause (iv) of Section 2(1)(b) of the Act. However, we are unable to agree with such arguments raised by Mr. Palli, learned Amicus. A complaint on behalf of one or two consumers having same interest can be filed

only with the permission of the forum of which the jurisdiction is invoked. Since the complainant is neither a voluntary consumer association nor a registered body, nor the permission of the appropriate forum has been sought, therefore, the complaint itself was not maintainable.

Secondly, Mr. Abhay Kumar, learned counsel for the appellant argued that it was clear from the complete set of original record of NCDRC produced by Mr. Palli, learned Amicus with great efforts and at his own cost, that M/S Aneja Consultancy is a sole proprietorship consultancy of Mr. I.J. Aneja. The same is evident from the investment receipts issued to the investors.

Since the opposite party is a sole proprietorship consultancy of Mr. I.J. Aneja, therefore, the liability of payment of investments would be that of Mr. I.J. Aneja and not of the employees who were engaged by Mr. Aneja at different places such as Nehru Place, NOIDA and Ghaziabad.

Since, the complaint itself was not maintainable and the appellant is an employee engaged by the sole proprietorship consultancy, there cannot be any personal liability which can be inflicted upon the appellant by virtue of only being an employee of a sole proprietorship.

Consequently, the present appeal is allowed. The order passed by the NCDRC is set aside and the complaint is dismissed.

Before parting, we must place on record the efforts put by Mr. Chritarth Palli, learned Amicus in assisting this Court and also making efforts to produce the photocopy of the record from NCDRC by his own efforts. We compliment the efforts made by Mr. Palli in

assisting this Court.

The amount deposited by the appellant in terms of order of this Court dated 26.03.2010 lying with the registry be refunded to the appellant along with the accrued interest at the earliest.

Pending application(s), if any, also stand disposed of.

.....J .
[HEMANT GUPTA]

.....J .
[V. RAMASUBRAMANIAN]

NEW DELHI;
14TH SEPTEMBER, 2021

ITEM NO.106

COURT NO.11

SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 2336/2010

YOGESH AGGARWAL

Appellant(s)

VERSUS

M/S. ANEJA CONSULTANCY
(A PART OF ANEJA GROUP) & ORS.

Respondent(s)

Date : 14-09-2021 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

Mr. Chritarth Palli, Adv. (A.C.)

For Appellant(s) Mr. Abhay Kumar, AOR
Mr. Kumar Milind, Adv.
Mr. Shagun Ruhil, Adv.
Mr. Vishal Nautiyal, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

Pending application(s), if any, also stand disposed of.

(SWETA BALODI)
COURT MASTER (SH)

(RENU BALA GAMBHIR)
COURT MASTER (NSH)

(Signed order is placed on the file)