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NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

Branch Manager, State Bank of India	APPELLANT
Vs	
MD.HASIM UDDIN	RESPONDENT

Date of Decision: Aug. 31, 2000

Citation: 2001 1 CLT 387 : 2001 1 CPC 290 : 2001 1 CPJ 164 : 2001 1 CPR 117

Hon'ble Judges: A.N.Chaturvedi , Asma Ahmad J.

Final Decision: Appeal dismissed

Judgement

1. THIS appeal is directed against an order dated 24.8.1993 passed by District Forum, Sahebganj in Case No. 9 of 1992 whereby the District Forum has directed the appellants, who were opposite party Nos. 1 and 2 in the complaint case before the District Forum, to adjust Rs. 32,800/- with interest thereon towards the loan advanced to the complainants (respondent Nos. 1, 2 and 3 in this appeal). There is further direction for adjustment of Rs. 10,000.00 awarded as compensation towards the loan advanced to the complainants.

2. IT appears that the complainants (respondent Nos. 1, 2 and 3 in this appeal) filed a complaint before the District Forum in July, 1992 alleging therein that they had been sanctioned loan by the State Bank of India, Sahebganj Branch for purchase of tractor, trailer, etc. for agricultural purposes and had deposited in the said Bank Rs. 33,900/- as margin money. The tractor was supplied to them. The said branch of the State Bank of India paid Rs. 32,800/- to opposite party No. 3 Shri Arvind Kumar Akela, proprietor of M/s. Maa Chanda Industries, Chandni Chowk, Kahalgaon (respondent No. 4) for supply of trailer, etc., but the said opposite party (respondent No. 4) did not supply the same which resulted in loss to them (complainants). On the aforesaid allegations the complainants in

their complaint petition had prayed for supply of trailer, etc. and in case of non-supply thereof, for realisation of Rs. 32,800/- with interest w.e.f. 1.12.1990, the date on which the said amount was paid by the Bank to the opposite Party (respondent No. 4) Arvind Kumar, the proprietor of M/s. Maa Chanda Industries. There was further prayer for payment of Rs. 50,000.00 as compensation. The total amount claimed was Rs. 75,000/- (which appears to be wrong as the total of Rs. 50,000/- + 32,800/- with interest from 1.12.1990 would be much more than 75,000.00).

The opposite party appellants filed show-cause (written statement) before the District Forum and contested the case. Opposite party No. 3 Arvind Kumar Akela, proprietor of M/s. Maa Chanda Industries, neither filed written statement nor contested the case. The case of opposite party appellants before the District Forum was that the complainants had been sanctioned loan of Rs. 1,20,000.00 on 27.11.1990 for purchase of tractor and other accessories. As per quotation of M/s. Maa Chanda Industries, they (appellants) placed supply order with Shri Arvind Kumar Akela, proprietor of M/s. Maa Chanda Industries on 1.12.1990 for supply of trailer, cultivator, hood and hitch and Rs. 32,800/- the cost of the said articles was credited to the supplier''s Current Account maintained in Sahebganj Branch of the State Bank of India. Since the said supplier failed to supply the trailer, etc., the complainants complained to them (appellants) and they visited supplier''s workshop on three dates but could not meet the supplier due to his absence. Seeing no other alternative the Bank served legal notice upon the said supplier on 15.1.1992 and lodged F.I.R. against the supplier at Sahebganj (T) P.S. on 3.9.1992 which was registered as Sahebganj (T) P.S. Case No. 162/92 under Section 409, I.P.C. One of the complainants filed complaint before the C.J.M., Sahebganj on 4.9.1992 which has been registered as Case No. 55/92 and the same is pending for investigation before Sahebganj (T) P.S. The opposite party appellants acted according to the norms of the Bank by disbursing the loan amount directly to the supplier against proper authority from the borrower. On the aforesaid allegations the opposite party appellants had prayed for directing opposite party No. 3 M/s. Maa Chanda Industries to supply the trailer, etc. to the complainants and to drop the proceeding against them.

The District Forum considered the cases on the parties and passed the impugned order. Now it has to be considered if the impugned order calls for any interference by this Commission or not ?

3. AT the time of hearing of this appeal no one appeared on behalf of the respondents to contest and hence it was heard ex parte. It is not disputed that the appellants are the officers of Sahebganj Branch of the State Bank of India. It is also not disputed that loan of Rs. 1,20,000.00 had been sanctioned by the said branch of the Bank to enable the

complainants to purchase tractor, trailer and its equipments and the complainants had also deposited some amount as margin money. It is also not disputed that tractor was supplied to the complainants by Hira Automobiles and the price of the tractor was paid by the Bank to the supplier of the tractor. It is also not disputed that the Bank on 1.12.1990 placed order with M/s. Maa Chanda Industries, Kahalgaon for supply of trailer, cultivator, hood and hitch to the complainants and credited an amount of Rs. 32,800.00 to the Current Account of M/s. Maa Chanda Industries maintained in the said branch of the Bank. It is also not disputed that M/s. Maa Chanda Industries did not supply trailer, etc. to the complainants which resulted in filing of complaint case by the complainants before the District Forum for the reliefs mentioned in para-2 of this judgment.

One of the reliefs sought for by the complainants was for supply of trailer, etc. It is not clear from the impugned judgment of the District Forum as to why this relief was not granted to the complainants. Since the price of trailer, etc. had been paid by the Bank to M/s. Maa Chanda Industries and since the opposite parties appellants in their show-cause had also prayed for a direction to M/s. Maa Chanda Industries for supply of trailer, etc. to the complainants, this relief should have been granted by the District Forum. Since the District Forum without assigning any reason has not granted this relief, the impugned order has to be modified.

4. IT has been pointed out by the District Forum that Rs. 32,800/- was paid by the opposite parties appellants directly to M/s. Maa Chanda Industries on 1.12.1990 without ensuring the supply of trailor, etc. to the complainants and hence the complainants would not be liable to pay Rs. 32,800/- and interest thereon to the Bank as the trailer, etc. had not been supplied to them. IT has been further pointed out by the District Forum that the Bank can realise the said amount from the said supplier through the process of law. In this connection it was contended on behalf of the appellants that the Bank as the financier is entitled to realise the loan amount and it is for the complainants to realise the said amount of Rs. 32,800.00 with interest from M/s. Maa Chanda Industries. IT is true that the Bank is entitled to realise the loan amount but at the same time the Bank cannot be allowed to shirk its responsibility of realising the said amount from M/s. Maa Chanda Industries. Had the said amount been paid by the Bank to M/s. Maa Chanda Industries through the complainants then the responsibility to realise the same would have been that of the complainants. IT would not be out of place to mention here that it was the Bank represented by the appellants which placed order for supply of trailer, etc. to the complainants and advanced the said amount to M/s. Maa Chanda Industries as price thereof. Since the Bank had paid the amount of Rs. 32,800/- to the supplier in advance, it was incumbent upon the Bank to ensure the supply of trailer, etc. to the complainants. Since the Bank has failed to ensure supply of trailer, etc. to the complainants, it is for the

Bank either to get trailer, etc. supplied to the complainants or to realise the said amount from M/s. Maa Chanda Industries with interest and to adjust the same towards the loan advanced to the complainants.

The District Forum has allowed Rs. 10,000.00 as compensation to the complainants without any evidence regarding loss to the complainants to the said extent. So, the direction of the District Forum for payment of Rs. 10,000/- as compensation is not sustainable in law. Apart from that the Bank or its employees cannot be held liable for consequential damages caused to the complainants. So the direction of the District Forum for payment of Rs. 10,000.00 as compensation is hereby set aside.

From the above discussions it is apparent that the impugned order has to be modified and it is modified as follows. M/s. Maa Chanda Industries (respondent No. 4) is directed to supply the trailer, cultivator, hood and hitch to the complainants (respondent Nos. 1, 2 and 3) within one month from the date of receipt/production of the copy of this order or to refund the advanced amount of Rs. 32,800/- with interest @ 18% per annum with effect from 1.12.1990 to the appellants failing which the appellants will realise the amount of Rs. 32,800/- with interest with effect from 1.12.1990 from respondent No. 4 through the process of law and will either pay the same (realised principal amount with interest) to the complainants or will adjust the same towards the loan advanced to the complainants. Respondent No. 4 will also be liable to be proceeded against under Sections 25 and 27 of the Consumer Protection Act in case the above direction for supply of trailer, etc. to the complainants within one month from the date of receipt/production of this order is not complied with. With the above modification in the impugned order, this appeal is hereby dismissed. There is no order as to cost. Appeal dismissed.