

## Jagmohan Lal Mohan Vs ICICI Home Finance Company Limited

**Court:** NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

**Date of Decision:** March 5, 2010

**Citation:** 2010 2 CPJ 189

**Hon'ble Judges:** Ashok Bhan , S.K.Naik J.

**Final Decision:** R.P. partly allowed.

### Judgement

1. MR. Justice Ashok Bhan, President-Petitioner, who was the complainant before the District Consumer Disputes Redressal Forum-II, Union

Territory, Chandigarh (hereinafter referred to as "the District Forum" for short), has filed the present Revision Petition against the Order dated

5.12.2005 passed by the State Consumer Disputes Redressal Commission, Union Territory, Chandigarh (hereinafter referred to as "the State

Commission" for short) wherein and whereunder the State Commission dismissed the Appeal filed by the petitioner.

2. SHORTLY stated, the facts leading to the filing of the case are:

3. IT is stated in the Complaint that the complainant and his wife were sanctioned home loan of Rs. 7,00,000 by the respondent vide sanction letter

dated 14.6.2002 that Rs. 7,000 were charged as processing fee and administrative charges besides one instalment of pre-EMI. That later on, the

respondents did not disburse the loan amount on one pretext or the other and, ultimately, on 4.12.2004, respondents refused to give the loan to the

complainant. Thus, being aggrieved, petitioner filed the Complaint before the District Forum for recovery of Rs. 12,925 besides Rs. 375 as

commission charges along with interest @ 18% p.a., i.e. , Rs. 970 and Rs. 20,000 as damages for mental harassment and physical discomfort. Rs.

2,200 were claimed as costs of litigation.

4. ON being served, respondents filed their written statement denying the allegations made in the complaint.

5. DISTRICT Forum, after taking into consideration, the evidence and the pleadings led by the parties, directed the respondents to refund Rs.

5,925 to the complainant along with interest @ 6% p.a. with effect from 29.11.2002 till payment. Rs. 500 were awarded as costs of litigation.

Respondent was directed to comply with the Order within 2 months.

6. AGGRIEVED by the Order passed by the District Forum, petitioner filed the Appeal before the State Commission. The State Commission

dismissed the Appeal holding that disbursement of loan amount or not, is the sole prerogative of the financial institution.

7. AGGRIEVED by the Order passed by the State Commission, petitioner has preferred this Revision Petition.

8. PETITIONER has appeared in-person. Respondent is represented through Counsel. Heard both the parties at length.

9. ADMITTED facts are that petitioner applied for taking a loan to purchase a property which was sanctioned but was not disbursed later on.

Petitioner in all deposited Rs. 12,375 besides Rs. 375 as commission charges. Rest of the amount was claimed by the petitioner by way of interest,

damages and costs of litigation. Out of the total amount deposited, respondents had agreed to return pre-EMI paid by the petitioner. The District

Forum directed the respondents to refund the sum of Rs. 5,925 out of the total amount deposited along with interest @ 6% p.a. with effect from

29.11.2000 till payment. Rs. 500 were awarded as costs of litigation. Respondents had collected Rs. 7,000 from the petitioner towards

processing fee and administrative charges, which, according to them, was not refundable as they had already spent this money by paying it to

different agencies for processing the application of the petitioner as well as to verify his credentials.

10. AGGRIEVED by the Order passed by the District Forum, petitioner had filed the Appeal before the State Commission. The State

Commission also held that the petitioner was not entitled to the refund of Rs. 7,000 which had been paid towards the processing charges and

administrative charges. The State Commission, in its Order, has observed that may be the respondent-Bank had adopted wrong procedure. That

the Bank should have called the original papers before sanctioning loan but once the loan had been sanctioned, the queries raised by the

respondent-Bank have become irrelevant. Even after recording this finding, the State Commission held that so far as the disbursement of loan is

concerned, the same is within the discretion of the Bank and the Commission could not interfere in disbursement of loan as it is the sole prerogative

of the financial institution whether to lend the loan or not. We agree with the finding recorded by the State Commission that it is the sole prerogative

of the financial institution to give the loan and the Commission cannot interfere in the same.

11. IN the present case, we find that the petitioner has been unduly harassed. The loan, after having been sanctioned, was not disbursed which

forced the petitioner to approach another Bank to get the loan and incur additional expenses. Accordingly, in order to compensate the petitioner,

we direct the respondents to pay, in addition to what has been awarded by the Fora below, a sum of Rs. 30,000 to the petitioner by way of

compensation for mental agony and harassment caused to him.

12. THE Revision Petition is, accordingly, partly allowed in the above terms. Petitioner would be entitled to costs of Rs. 3,000. R.P. partly

allowed.