(2015) 04 NCDRC CK 0009

In the National Consumer Disputes Redressal Commission

A T S Govindarajan APPELLANT

Vs

CHIEF MANAGER, STATE BANK OF INDIA RESPONDENT

Date of Decision : 15-04-2015

Acts Referred:

Citation : 2015 2 CPR 498

Hon'ble Judges : J.M.MALIK , S.M.Kantikar J.

Final Decision : Petition dismissed

Judgement

1. THE main question pivots around the question whether it is duty of Bank or its client/consumer to insure hypothecated property. It must be borne in mind that the agreement entered into between the parties is of infinite importance. It is settled law that the terms of the contract have to be strictly read and natural meaning be given to it. No outside aid should be sought unless the meaning is ambiguous (United India Insurance Company Limited v. M/s. Harchand Rai Chandan Lal, 2004 8 SCC 644).

2. SH . A.T.S. Govindharajan, the complainant obtained a tractor loan from the S.B.I., Opposite Party in January 2000. The complainant paid a sum of Rs.60,658/ - and rest of the amount was financed by the State Bank of India, Chidamabaram. The vehicle of the complainant was insured by the OP from January 2000. The said vehicle was missing from the house of the complainant on 16.5.2007. FIR was got registered. It also transpired that the OP renewed the policy till 2004. The complainant was not aware that there was non -payment of premium after 2004.

3. THE petitioner filed a consumer case praying to direct the OP Bank to pay Rs.2,74,262/ - and for mental agony and costs in the sum of Rs.5,000/ - each. The District Forum allowed the complaint. The State Bank of India preferred an appeal before the State Commission. It passed the following order: - "9. But records reveal that the complainant has duly informed the opposite party/ appellant about the theft of the vehicle. Though the complainant is not entitled for the entire sum assured in respect of his vehicle stolen, the bank had a duty to

inform the complainant. Updating insurance policy is the responsibility of the owner/Respondent, But without valid insurance, the bank is also placed in a difficult situation regarding the vehicle. Though the Bank need not pay the premium, the bank should at least inform the complainant/Respondent that the premium is due.

10. In the result, this appeal is partly allowed directing the appellant/opposite partly to pay a sum of Rs.25,000/ - towards compensation and Rs.3,000/ - as costs, setting aside the order of the District Forum."

Aggrieved by this order, the complainant filed the instant Revision Petition. Counsel for the petitioner has cited various authorities in support of his case. The first authority is decided by this Bench authored by Hon''ble Mr. Vinay Kumar, Member. In the Chairman and Anr. Versus Consumer Protection Council, Tamil Nadu and Anr.,2013 1 CPR 269 we held that in the said particular case it was the duty of Bank to insure hypothecated property. However, the stipulation in the agreement was wee bit different. It was mentioned that the borrower would get the hypothecated property insured but there was another clause which goes to read like this. "In case, the borrower neglects or defaults, the bank may without being under any obligation, insure the mortgage security at the cost of the borrower and debit the premia paid from time to time to the borrowers account.

4. WE are of the considered view that this case is not applicable to the facts of this case.

5. LEARNED counsel for the petitioner has also cited other authorities reported in Corporation Bank Versus Sandhya Shenoy and Anr., 2009 1 CPJ 34 , Rajgarh Sehore Kshtriya Gramin Bank Versus Ramgopal and Ors., 2006 3 CPJ 300 and Shree Kalyal Ayurvedic Pharmacy, Gujarat Versus Commercial Co -operative Bank Ltd., 2007 4 CPJ 127 .

6. THE facts of these cases are different. They have no parallels with the facts of this case. The agreement entered into between the parties in this case is crucial. Para Nos. 7 and 9 are germane to the present controversy and therefore, the same are hereby reproduced: - "VII. Without prejudice to the Rules and Regulations of the Bank, it is entitled to the safeguard and interests of the Bank, to proceed against the hypothecated property, or file suit or other proceedings.

The Bank is entitled to inspect the hypothecated property, value the property by appraiser, and Insure the same, supervise the disposal of the property or seize the property.

IX. The BORROWERS are required to insurer the hypothecated property, for Fire and other calamities, and loss and the Insurance policy should be deposited with the Bank. Such amount should be credited to the loan account and If the borrower do not do this, the Bank is entitled to insure the hypothecated property (though this is not mandatory) and such proceeds of the matured policy, and such amounts would be utilized towards the loan account."

7. THEREFORE , it is, crystal clear that it was not mandatory for the Bank to get the hypothecated property insured. This view finds support from the Apex Court''s authority reported in Pradeep Kumar Jain Vs. Citibank and Anr., 1999 6 SCC 361.

8. AGAIN , this Commission in Canara Bank Vs. Deep Chand and Ors., 2013 3 CPJ 225 held that it is well settled that the loanee is duty bound to take the policy unless the authority is given in favour of the Bank in writing, in absence of such authority, there is no legal obligation on the part of the Bank to obtain the policy on behalf of the loanee.

9. THERE is no stipulation in the agreement which may favour the petitioner. The Revision Petition is lame of strength and therefore, the same is dismissed. No order as to costs.

