(1996) 01 NCDRC CK 0014

In the National Consumer Disputes Redressal Commission

BANK OF BARODA APPELLANT

Vs

Arvind Modern Dal And Rice Mill RESPONDENT

Date of Decision : 22-01-1996

Acts Referred:

Citation : 1996 1 CLT 576 : 1996 1 CPC 192 : 1996 1 CPJ 271 : 1996 1 CPR 568

Hon'ble Judges : V.BALAKRISHNA ERADI , B.S.YADAV , S.S.CHADHA , R.THAMARAJAKSHI , S.P.BAGLA J.

Judgement

1. THIS First Appeal by the Bank of Baroda is directed against the Order dated 22.4.93 of the U.P. State Commission at Lucknow allowing the complaint and awarding a compensation of Rs. 1 lakh.

2. SINCE we are inclined to set aside the impugned order on the ground that there has been no satisfactory adjudication by the State Commission, we will notice the facts very briefly without expressing any opinion on the merits of the rival contentions. On the request of the complainant for working capital finance, the Bank of Baroda sanctioned to the complainant cash credit facility to the extent of Rs. 4 lakhs on certain terms and conditions contained in the letter of sanction dated 20.8.88, inter alia, that the facility was granted for a period of 12 months with right to call back the advance or to alter the terms and conditions during the currency of the advance. The Bank of Baroda gave the credit of Rs. 4 lakhs on 2.9.88 after completion of the legal formalities. The complainant alleged that she installed machinery after investing her entire capital and with the financial assistance of the U.P. Financial Corporation and started the production with the working capital of Rs. 4 lakhs disbursed by the Bank of Baroda. The case of the complainant is that the production in the factory was in full swing when all of a sudden on 26.12.89 the Bank of Baroda reduced the limit to Rs. 2 lakhs and called upon the complainant to adjust the outstanding with the result that the factory of the complainant had to be closed due to want of working capital. It is pleaded that the interest on the loan taken from the UP. Financial Corporation as well as electricity charges kept on mounting and ultimately the U.P. Financial Corporation took possession of the factory in default of payment to them. The

complainant alleged huge losses amounting to Rs6,55,135.94 due to nonavailability of working capital and failure of the Bank of Baroda to restore the limit. The Bank of Barodas stand in nut shell is that as the complainant failed to follow the terms and conditions of the loan, failed to regularise her accounts and failed to maintain sufficient stocks and bring down the excess drawings, the Bank reduced the limit to Rs. 2 lakhs and as the complainant did not comply with those conditions, it recalled the limit and filed a civil suit for the recovery of the out standings.

3. THE State Commission mainly dealt with the question as to whether the Banks action in issuing the letter dated 26.12.89 is correct or not and ultimately quashed it and directed the Bank of Baroda to come out with a reasoned order indicating grounds for reducing the cash credit facility. The State Commission then held that ''there is nothing to indicate the extent of loss but some loss must have been occasioned on account of reduction of cash credit facilities'' but, however, arbitrarily assessed the compensation at Rs. 1 lakh by the impugned order.

4. IT is evident that the State Commission is conscious of the view taken by this Commission that it is for the Bank to decide whether the project is viable or the borrower is credit worthy or the particular constituent is eligible for credit or the limits thereof in consonance with tine guidelines laid down by the Reserve Bank of India. The State Commission, therefore, asked for reasons by directing the Bank to come out with it, but proceeded hastily to grant compensation. Tine award of compensation has to be made only on well recognised legal principles governing quantification of damages or compensation on proof of actual loss suffered. The impugned order suffers from serious illegalities. We wish to say no more as any expression of opinion may prejudice either of the parties. We, therefore, allow this appeal and set aside the impugned Order of the State Commission dated 22.4.93 and remand the case back to the State Commission for satisfactory adjudication after affording the parties an opportunity to substantiate their stand and after hearing them. We make no order as to costs of these proceedings. Appeal allowed.