(2015) 07 NCDRC CK 0013

In the National Consumer Disputes Redressal Commission

Case No : 1295 of 2015

BANK OF BARODA APPELLANT

Vs

Minaben R Bane RESPONDENT

Date of Decision : 01-07-2015

Acts Referred:

Citation : (2015) 07 NCDRC CK 0013

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

Advocate : Petition dismissed

Judgement

1. COUNSEL for the petitioner present. Arguments heard. Sh. R.G. Bane (deceased) took housing loan in the sum of Rs.3,10,000/ - on 21.03.2008 from Bank of Baroda -OP. The loan amount was disbursed to the builder on 12.04.2008. It was stipulated in the Scheme that the Bank will offer benefit of free property and personal accident insurance up to the loan amount. Unfortunately, Sh. R.G. Bane passed away on 30.04.2008.

2. SMT . Minaben R. Bane widow of the Sh. R.G. Bane filed the present complaint. She intimated about the death of her husband and filed a claim and asked the Bank to obtain it from the Insurance Company. Subsequently, it transpired that the Bank did not take the Insurance policy for the above said purpose and did not pay the Insurance premium till 30.04.2008. The Bank did not issue due certificate and return the original title deeds.

3. THE District Forum came to the conclusion that the Bank did not pay Insurance Premium nor did it obtain the Insurance Policy. It was found that there was deficiency in service on the party of the Bank. The District Forum passed the following order: - The complaint is partly allowed. The opponent bank is hereby ordered to pay all loan amount shown as due amount in the loan account of complainant s deceased husband bearing No. 12830600026362 and issue no due certificate to the complainant she being widow of deceased loan borrower late Shri R.G. Bane. Opponents are also hereby ordered to hand over all relevant documents, pertaining to the property, to the complainant. On depositing such

amount by opponent bank in loan account of the deceased husband of the complainant shall be considered as payment towards risk coverage in case of personal accidental death coverage as per policy features described in para -3 (b) (II) read with para 4. Opponents are also hereby ordered to pay Rs.10,000.00 (rupees ten thousand only) towards mental torture and agony to the complainant and Rs.5,000.00 (rupees five thousand only) towards the cost of this complaint to the complainant. The order passed below Ex. 11 is hereby made absolute. This award be complied with within two months from the date of receipt of copy hereof .

The State Commission dismissed the appeal. It imposed Rs.5,000/ - as costs.

4. WE have heard the counsel for the petitioner at the time of admission of this case. Counsel for the petitioner submitted that the petition under the SARFAESI Act is pending and this Commission has no jurisdiction. In the written reply, in the order of the District Forum and in the order of the State Commission, this plea was never raised. Moreover, pendency of a case under the SARFAESI Act has nothing to do with the facts involved herein with. The counsel for the petitioner admitted at the Bar that the Insurance Policy was not obtained by the Bank. He also admitted that it was the duty cast upon the Bank to obtain the policy in this case. It clearly goes to show negligence, inaction and passivity on the part of the Bank.

5. NO ground. Dismissed with costs in the sum of Rs.10,000/ - as the Revision Petition is frivolous and vexatious in terms of Section 26 C.P. Act. The said costs as well as the entire decretal amount be paid to the complainant within 90 days otherwise it will carry interest at the rate of 9% per annum till its realization. Compliance report to be filed by the Registry. Copies be sent to both the parties.