courtkutchehry.com

Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 18/08/2026

(1998) 07 NCDRC CK 0049

In the National Consumer Disputes Redressal Commission

BANK OF INDIA — APPELLANT

Vs

PRAMOD P.DHOND — RESPONDENT

Date of Decision : 16-07-1998

Acts Referred:

Citation : 1998 2 CPC 317 : 1998 2 CPR 563 : 1998 3 CPJ 86

Hon'ble Judges : B.N.Krishnan , Y.V.Rao , Mangala Sanes J.

Final Decision : Appeal allowed

Judgement

1. THE appellant was the opposite party before the Consumer Disputes Redressal Forum, North Goa in Complaint No. 250/94 and being aggrieved by the direction given to it to return LIC policies to the complainant duly re-endorsed and also to pay compensation of Rs. 2,000/- for mental torture alongwith cost of Rs. 1,000/- has preferred this appeal.

2. FOR purpose of appreciating the points canvassed in this appeal, only a few facts need be stated. The complainant had opened cash credit account with the opposite party and he had given two insurance policies taken from L.I.C. as security for amount which became due on the said account and that account was closed on 4.1.1994 and nothing was due in respect of that account. He took delivery of L.I.C. policies and tendered them before L.I.C. to cancel their lien and re-endorse the same in his favour. He was directed by L.I.C. to get the endorsement by Bank made in the policies. So he again approached the Bank for getting the endorsement. The Bank did not deliver the policies and, therefore, he was obliged to approach the District Forum for redressal.

The opposite party has not disputed that the policies were given by the complainant as security and that the said account was closed and nothing was due in respect of said cash credit account. On the other hand, it is pleaded that the complainant has specifically agreed that it could retain the policies as security for the general balance due on any other account. The complainant was the guarantor to one Shri Nayak. He is due to the Bank and the matter relating to Nayak is pending before Bicholim Court in Execution Case No. 3/87/A under the term of contract as also the provisions of Contract Act the Bank is entitled to withhold these policies as security in respect of dues by Nayak for which the complainant was the guarantor. It is also stated that by mistake the concerned clerk had returned these policies and later the mistake was found out.

3. THAT there is a proceeding against Shri Nayak and the complainant was the guarantor in that regard to the Bank are not disputed before us by the complainant. THAT the complainant has also executed a letter in favour of opposite party dated 30.1.1979 whereby he has agreed that Bank may also hold security belonging to him not only for the specific advance made to him but also as collateral security for any other moneys due or which may at any time be due from him whether singly or jointly with another or others is also not disputed. On the other hand, the complainant has admitted the same. If that be so, there is nothing wrong in the Bank withholding these policies as security for the amounts due by Shri Nayak. The complainant is the guarantor to Shri Nayak. It has also to be noticed under Section 171 of Indian Contract Act wherein the Banker can exercise their powers to have general lien. In view of the contract as also power to have general lien under this section, it appears to us the District Forum was not at all right in granting the prayer of the complainant. The decision of this Commission relied upon by the District Forum was on the facts of that case and no principle of law has been laid down in that decision. Therefore, we are of the considered view that the District Forum ought to have dismissed the complaint. In the result, the appeal is allowed and the order of District Forum is set aside and complaint shall stand dismissed. In the circumstances of the case, the parties are directed to bear their own costs throughout. Appeal allowed.

Downloaded from CourtKutchehry — https://dev.courtkutchehry.com/judgments/bank-of-india-appellant-hash-pramo…