
(1992) 02 NCDRC CK 0057

In the National Consumer Disputes Redressal Commission

BASIR USMAN VIDHA

APPELLANT

Vs

MANAGER, UNITED COMMERCIAL BANK

RESPONDENT

Date of Decision : 10-02-1992

Acts Referred:

Citation : 1992 0 CPC 605 : 1992 1 CPR 748 : 1992 2 CPJ 664

Hon'ble Judges : S.A.Shah , R.K.Shah J.

Final Decision : Appeal dismissed

Judgement

1. ON the last date of hearing we heard the appellant's Advocate. He wanted to produce some documents and, therefore, we adjourned the matter.

2. HOWEVER when the matter is called out today, the junior of Mr. Lakhani, Advocate for the appellant has again prayed for adjournment. We had given sufficient opportunities to the appellant. Therefore we reject the prayer for time. The appellant-complainant alleged that he purchased a lottery ticket of Cherapunji Weekly (Meghalaya State) from Junagadh. The draw was held on 9.12.85 and the appellant won a prize of Rs. 10,000/-. He therefore opened a Saving Bank account with opposite party No. 1 Bank and deposited the lottery ticket on 10.1.86 alongwith miscellaneous charges. The respondent bank sent the said ticket to its sister branch i.e. UCO Bank Shilong on 13.1.86 by registered post A.D. along with the photograph of the appellant duly attested by Magistrate, original lottery ticket, result of lottery, original certificate of income-tax Officer etc.

That the said registered insured parcel did not reach Shilong. The Opposite Party No. 1 did not care to exercise a check over the same. After about a period of 2-3 months he made a complaint but nobody heard. He addressed a letter dated 13.10.86 to which the opponent No. 1 replied that he will be informed as soon as he receive a letter from Opposite Party No. 2. Ultimately the complainant filed a complaint on 13.9.91 before the District Forum. The District Forum has rejected the complaint on the ground that prior to the filing of the complaint he had filed a Civil Suit in the Court of Civil Judge, Senior Division, Junagadh registered as

Civil Suit No. 981/90 which he has withdrawn without the permission of the Court. Therefore the present complaint was barred. The application was, therefore, not registered.

3. IN any view of the matter the lottery ticket is of 1985. The same was sent by the Bank through post office which did not reach the destination. Therefore the cause of action has arisen in the year 1985 and the complainant has filed the complaint in the year 1991. A Civil Suit was also filed but same has been withdrawn without the permission to file a fresh suit. IN the circumstances we find no error committed by the District Forum in not registering the complaint. Therefore there is no merit in this appeal and the same is liable to be dismissed. ORDER The appeal is dismissed. With no order as to costs. Appeal dismissed.