
(2002) 09 NCDRC CK 0034

In the National Consumer Disputes Redressal Commission

BHUPENDRAKUMAR R.PARIKH

APPELLANT

Vs

Bank of India

RESPONDENT

Date of Decision : 18-09-2002

Acts Referred:

Citation : 2003 2 CPJ 137

Hon'ble Judges : D.P.Wadhwa , J.K.Mehra , Rajyalakshmi Rao , B.K.Taimni J.

Final Decision : Revision Petition dismissed

Judgement

1. THIS appeal arises out of the order of the State Consumer Disputes Redressal Commission, Tamil Nadu, whereby the State Commission directed the complainant to pursue his remedy in a Civil Court.

2. THE facts in brief are that one Mr. Ramanlal J. Parikh, since deceased, had two lockers i.e. Locker Nos. 165-A and 413-C, in Bank of India, Mount Road Branch, Chennai. He died on 10.5.1999, leaving behind his sons and daughters as legal heirs. THE complainant is one of them. His contention is that he had power of attorney to have access to the locker. But, the Bank took the stand that it did not take the cognizance of any claim made by any person other than the locker holder/hirer and, as such, the Bank wrote back to the complainant stating that they could not accede to his request to allow him to be present at the time of opening of the lockers. It had also advised the complainant to produce an order of the injunction from the competent Court and in the absence of such an order, it permitted break open of the locker by the concerned nominee. As per the nominee the said locker No. 413-C was drilled open on 8.7.1999 at about 4.00 p.m. by the Godrej Company Mechanic in the presence of the nominee, the Chief Manager and the Custodian, Contents being six boxes were removed by Mr. Jitendra Kumar Parikh. He was told by the Custodian to see the contents of the inventory. In the meantime, the complainant, Mr. B.R. Parikh along with his daughter also arrived on the scene and started quarrelling with Mr. Jitendra Kumar Parikh. After some time they left the Bank premises. And, hence, the inventory could not be taken in this connection, the complainant made a

complaint to the Banking Ombudsman contending that non- taking the inventory of the contents of the lockers was in gross violation of the provisions as adumbrated in the Banking Regulation Act, 1949, which amounts to deficiency in service and claimed Rs. 10 lakhs on that account. When he was advised to approach Civil Court, he approached the State Commission in complaint. THE State Commission, relying upon the decision of the National Commission decided in the case of M/s. Special Machines v. Punjab National Bank & Ors., reported at 1991 (1) CPR 52, directed the complainant to approach the Civil Court. Not satisfied with the order of the State Commission, the complainant came in appeal before us. We have heard the learned Counsel for the appellant/complainant. We have also gone through the well-reasoned, fair and detailed order of the State Commission. To decide this case a lot of evidence, both oral and documentary, shall have to be led which is not possible in the summary jurisdiction where matters are to be decided in time-bound schedule. In view of this, we affirm the order of the State Commission with liberty to the complainant to approach the Civil Court to seek his remedy.

In this connection if any difficulty on, account of limitation arises, it will be open to the complainant to move the Civil Court under Section 14 of the Limitation Act, 1963 for exclusion of time spent in the present proceedings. In this connection it is pertinent to mention a decision of Hon''ble Supreme Court passed in the case of Laxmi Engineering Works v. PSG Industrial Institute, II (1995) CPJ 1 (SC)=(1995) 3 SCC 583, wherein the Hon''ble Supreme Court held as under : "If the appellant chooses to file a suit for the relief claimed in these proceedings, he can do so according to law and in such a case he can claim the benefit of Section 14 of the Limitation Act to exclude the period spent in prosecuting the proceedings under the Consumer Protection Act, while computing the period of limitation prescribed for such a suit."

Accordingly, this complaint is dismissed without prejudice to the complainant's rights to approach Civil Court or any other appropriate Forum. Revision Petition dismissed.