
(2004) 03 NCDRC CK 0006

In the National Consumer Disputes Redressal Commission

H.D.F.C. BANK LIMITED

APPELLANT

Vs

PRITHVI NATH PRASHAR

RESPONDENT

Date of Decision : 29-03-2004

Acts Referred:

Citation : 2004 2 CPJ 776

Hon'ble Judges : K.K.Srivastava , MajGenS.P.Kapoor J.

Final Decision : Appeal allowed

Judgement

1. -THIS is an appeal filed against order dated 4.11.2003 passed by the District Consumer Disputes Redressal Forum-II, U.T., Chandigarh [for short hereinafter referred to as the District Forum] in Complaint Case No. 1427 of 2001.

2. MR. Harish Chander Gupta, Advocate appearing for the appellant contended that due to reasons mentioned in ground No. 6 of the grounds of appeal, the appellant could not appear before the District Forum and file reply to the complaint case. In ground No. 6, the plea raised is as under: "6. That the appellant was proceeded against ex parte for the reason that it could not appear before the Forum as the said F.D.R. so made was by the Times Bank before its merger with the appellant-Bank and the entire records of Times Bank of whole of India as well as abroad were being maintained by a Central Agency at Mumbai." The District Forum has in the Zimini order dated 8.9.2003 after hearing arguments of the complainant found that the O.P. had not been duly served with the notice. The District Forum decided to issue notice afresh for 17.10.2003. The said notice was served through the courier service and the receipt of the notice has been placed on record of the complaint case as showing that the concerned official of the H.D.F.C. Bank signed the same along with the stamp, which is affixed therein though the same is quite faint. It is, however, not disputed that the Bank had received the notice and the copy of the complaint case.

The main ground urged is that the Fixed Deposit Receipt related to the Times Bank, which prior to the merger with the H.D.F.C. Bank was transacting independently with the customers. Upon the merging of the said Times Bank with

the appellant-H.D.F.C. Bank, the records of the Times Bank including the record relating to the Fixed Deposit Receipt in question were lying at the office of the Bank in Mumbai. The records related to the transactions in India as well as abroad. It has also been averred in ground No. 6 that the appellant-Bank despite efforts could not locate the record of this case relating to Fixed Deposit Receipt in question and hence, no reply can be filed, which default was neither wilful nor intentional. In this background, Mr. Harish Chander Gupta, Advocate submitted that an opportunity be allowed to the Bank to file written statement to the complaint case filed by the respondent and a reasonable opportunity be also allowed to lead evidence in support of the defence taken in the written statement.

3. MR. Harsh Tandon, Advocate appearing for the respondent, on the other hand, pointed out that despite service of notice, the Bank did not consider it appropriate to contest the complaint case and at least somebody could appear from the appellant-Bank before the District Forum and seek time to file the written statement. The said submission of the learned Counsel for the respondent carries weight but at the same time, we find that the case of an institution like H.D.F.C. Bank, which is the successor Bank on merger of the erstwhile Times Bank, should not be allowed to suffer for any slackness or carelessness on the part of its officials/employees. Ultimately, it would be the appellant-Bank, which would suffer and with this end in view, we allow an opportunity to the appellant-Bank to appear before the District Forum for filing the reply to the complaint case and to lead evidence in support of the defence plea. But before doing so, we deem it just and proper to burden the appellant-Bank with costs of Rs. 500/- for the said lapse on the part of the officers/employees of the Bank. Resultantly, the appeal is allowed. The impugned order is set aside. The appellant-Bank, which is the opposite party in the complaint case, shall pay to the learned Counsel Mr. Harsh Tandon, Advocate of the respondent/complainant costs of Rs. 500/- before proceeding with the filing of the written statement in the District Forum. The costs may be paid and receipt obtained from the Counsel for opposite Mr. Harsh Tandon, Advocate be placed on record of the complaint case. The parties are directed to appear before the District Forum-II, U.T. Chandigarh on 8.4.2004. The District Forum shall allow time as prescribed under Section 13(2)(a) of the Consumer Protection Act, 1986 for filing the written statement and shall proceed to allow reasonable opportunity to the respondent/complainant as well as the appellant/O.P. to lead evidence in support of their respective pleas and decide the complaint case preferably within two months from the date, the parties appear before it. Copies of this order be sent to the parties free of charge. Appeal allowed.