(2007) 01 NCDRC CK 0039

In the National Consumer Disputes Redressal Commission

Jaswant Singh APPELLANT

Vs

HDFC BANK LTD RESPONDENT

Date of Decision : 09-01-2007

Acts Referred:

Citation : 2007 2 CPJ 3

Hon'ble Judges : K.C.Gupta , MajGenS.P.Kapoor , Devinderjit Dhatt J.

Judgement

1. -THIS appeal has been directed by the complainant against order dated 28. 11. 2006 passed by Consumer Disputes Redressal Forum-I, U. T. Chandigarh (hereinafter to be referred as District Consumer Forum), vide which his complaint was dismissed.

2. BRIEFLY stated the facts are that the appellant (complainant) had obtained personal loan of Rs. 2,15,000 from HDFC Bank (OP) vide loan account No. 128719 which was disbursed in the month of October, 2002 and was to be returned with interest @ 10% p. a. The loan amount was to be returned in 48 equated monthly instalments of Rs. 6,395 each starting from November, 2002. On demand, the appellant delivered 48 post-dated cheques of Rs. 6,395 each to the respondent. It was next averred that in the month of October, 2004 the appellant noticed that respondent had charged higher rate of interest than 10% p. a. and accordingly he requested the respondent to charge interest @ 10% p. a. but it did not agree and as such charged Rs. 40,000 in excess towards interest till 11. 10. 2004. Even respondent demanded Rs. 1,39,883 from the appellant, on account of interest, foreclosure charges @ 4% which were wrongly claimed. Finding no other alternative, he paid Rs. 1,33,489 to the respondent vide receipt dated 11. 10. 2004 in full and final settlement of the claim and the OP issued receipt but did not return 24 post-dated cheques despite repeated requests and went on presenting those cheques which were dishonoured.

It was also alleged that Goonda elements of respondent had been visiting at his residence and had been threatening him with dire consequences.

3. ALLEGING deficiency in service, the complaint was filed. Respondent contested the complaint and stated that the loan was sanctioned to the appellant and was disbursed on 1. 10. 2002 which was returnable in 49 equated monthly instalments of Rs. 6,395 each and later on appellant approached respondent expressing his intention to settle his loan account in full and final settlement and accordingly vide letter dated 9. 10. 2004 he was asked to pay Rs. 1,39,883. 45 but he did not pay full amount as agreed and paid only Rs. 1,33,489 vide receipt dated 11. 10. 2004. It also denied that the appellant had paid loan amount on due dates whereas in the month of June, 2004 his cheques starting bouncing on presentation. It next stated that the interest was charged on the agreed rate on the basis of which EMI had been settled. Charging of higher rate of interest was denied. It next stated that no unfair trade practice had been adopted and as such the complaint should be dismissed.

4. PARTIES adduced their evidence by way of affidavits. After hearing Counsel for the parties, District Consumer Forum vide order dated 28. 11. 2006 dismissed the complaint as merit-less. Aggrieved by the said order, complainant has filed the present appeal.

5. WE have heard Counsel for appellant Mr. P. K. Kukreja and carefully gone through the file.

6. IT is an admitted fact that a loan of Rs. 2,15,000 was advanced to the appellant by the respondent in October, 2002. The said amount was to be returned in monthly instalments with interest @ 18. 75% p. a. and not 10% p. a. as stated by the appellant. The amount was to be returned in 48 equated monthly instalments of Rs. 6395 each for which the appellant had issued 48 post-dated cheques for payment of equated instalments. No documents has been placed on file that the rate of interest was agreed @ 10% p. a. and not @ 18. 75% p. a. The equated monthly instalment of Rs. 6395 was to be paid for 48 months which included interest also. The letter Annexure C-1 issued by the respondent is on file. It is dated 3. 10. 2004. It shows that an amount of Rs. 2,15,000 was sanctioned to the appellant and he was to return the amount in equated monthly instalments of Rs. 6395 each and the number of instalments was 48. The amount was to be paid by 7th of every month with effect from 7. 11. 2002 from account No. 128719 held by the complainant with the respondent bank. Annexure C-3 dated 9. 10. 2004 contained the details showing the amount received and amount remaining balance. The account of appellant was settled by the respondent after foreclosure on 9. 10. 2004. Annexure C-4 is repayment receipt number 186002 which is signed by the appellant as well as the authorized signatory of the bank. It shows that full and final payment of personal loan account No. 128719 amounting to Rs. 1,33,489 had been acknowledged from the appellant. Therefore, according to this receipt nothing remained due from the appellant as it was a full and final receipt of foreclosure amount secured by the respondent from the appellant. The amount stood already cleared from the account of appellant on 13. 10. 2004 as reflected in Annexure C-5. Since

appellant had returned the whole of the amount as per settlement Annexure C-4 and no amount remained due, so, respondent was not empowered to withhold unpaid post-dated cheques which it was liable to return to the appellant. The respondent had unnecessarily levied cheque bouncing charges when all these payments in the foreclosure system had been made by the appellant with the respondent on 9. 10. 2004. Therefore, District Forum had rightly ordered return of 24 post-dated cheques issued by the appellant effective from 7. 11. 2004 to 7. 10. 2006 within 30 days from the receipt of copy of the order. The District Consumer Forum had also rightly ordered that the bank was not entitled to claim bouncing charges as the settlement had already taken place and appellant had made payment. The appellant had been put to harassment for which respondent had been ordered to pay Rs. 5,000 as compensation besides Rs. 1,100 as costs of litigation within 30 days and in default to pay interest @ 9% p. a. till the date of realization of the amount. The Counsel for appellant contended that the compensation awarded is meagre and the same should be enhanced. In our opinion, appellant had not suffered any monetary loss due to the act of respondent. He had only suffered mental pain and agony for which he has been sufficiently awarded compensation. Thus, there is no reason to enhance the compensation. Consequently the appeal is dismissed in limine.

Copies of this order be communicated to the parties, free of charge. Appeal dismissed in limine.