(2012) 10 NCDRC CK 0060

In the National Consumer Disputes Redressal Commission

K.L.Virmani , Secretary , General Manager APPELLANT

Vs

Krishna Dhar RESPONDENT

Date of Decision : 11-10-2012

Acts Referred:

Citation : 2012 0 NCDRC 587

Hon'ble Judges : J.M.Malik , Vinay Kumar J.

Advocate : Mohinder Singh , Ram N.Sharma , Shivali , Sunil Sabharval

Judgement

1. THIS revision petition is filed by the LIC of India, who were OP-3 in the consumer complaint decided by the District Forum, (East) NCT of Delhi. The other two OPs were Secretary and General Manager of Delhi Co-operative Group Housing Society. The claim of the Complainant, Smt. Krishna Dhar was rejected by the District Forum, but her appeal against the rejection has been allowed by the State Commission. The State Commission has held that the outstanding amount of the loan, if any, was recoverable from OP-3/the revision petitioner, as the Complainant was the direct beneficiary of the contract between OP-2 and OP-3.

2. WE have carefully perused the records and heard the counsels for the two parties. The revision petition has been filled with a very large delay of 558 days. This delay is sought to be explained by the revision petitioner through a very short, perfunctory and non-specific application for its condonation. The impugned order was passed by the Delhi State Commission on 3.7.2008. The revision petition challenging it has been filed on 2.6.2010 which is after a gap of 23 months. Yet, the application does not even disclose the date when the petitioner came to know that the impugned order had been passed. It only states that certified copy was applied for on 25.2.2010 and received on 5.3.2010. A perusal of the application for condonation clearly shows that it is a mere prayer to condone the delay without any details. This Commission would therefore, like to express its complete disappointment with the manner in which the question of limitation has been addressed by the petitioner, LIC of India. The petitioner was

aware of the huge gap of 23 months between the date of the impugned order and the date when the revision petition was eventually filed. The petitioner is also aware that the law permits a period of only 90 days for filing of such a petition and that delay, if any, has to have a reasonable justification. Yet, the application filed by the LIC makes no effort to explain this huge gap, with what could be considered as sufficient cause. We may point out that the law on the subject of limitation has been fully enunciated by Hon ''ble Supreme Court of India in a series of decisions. In Anshul Aggarwal Vs. New Okhla Industrial Development Authority, IV (2011) CPJ 63 (SC), the delay of 233 days in filing the Special Leave Petition was not condoned. The Apex Court has observed:- "It is also apposite to observe that while deciding an application filed in such cases for condonation of delay, the Court has to keep in mind that the special period of limitation has been prescribed under the Consumer Protection Act, 1986 for filing appeals and revisions in consumer matters and the object of expeditious adjudication of the consumer disputes will get defeated if this Court was to entertain highly belated petitions filed against the orders of the consumer Foras. "

We therefore hold that the revision petition merits dismissal on the ground of limitation alone.

Coming to the merits of the case, the State Commission has very rightly observed that the question to be determined is whether the appellant/ Complainant, who was a transferee member, was entitled to the benefit of Group Insurance Scheme and whether she could be called upon to pay the outstanding amount in the background of non-cooperation between the OPs. The Group Insurance Policy taken by the Housing Society was only to ensure that in case of death of a loanee member during the tenure of the loan, the outstanding balance would be payable under the policy.

3. BEFORE the fora below, the case of the complainant was that loan instalments were being paid regularly by her father. His death was duly reported to the Society. The latter had passed a resolution in the AGM accepting substitution of the name of the complainant in place of her father. The OP Society had also resolved to claim the outstanding loan amount from the LIC. While all this happened during 1993 and 1994, years later the Complainant received a legal notice in 2001 from the OP Society to pay a sum of Rs.2,74,747/- towards the outstanding loan of her father. These facts were not denied by the OPs before the District Forum. In fact the OPs took mutually contradictory stands. The stand of OP-1 before the District Forum was that the case of Shri Raina (late father of the Complainant) could not be submitted as he was over 65 of age at the time of his death. Learned counsel for the revision petitioner also drew our attention to this stand of the OP-1. However, this is contrary to the stand of the revision petitioner/OP 3 before the District Forum. In the written response the petitioner / OP-3 has stated that the claim paper of the Complainant was received but could not be settled by OP-3 for want of certain details, mentioned therein. On 10.2.1999, these details were sought from OP-2, but were not received till the

date of submission of the written response.

4. IN the above background, we find ourselves in complete agreement with the view taken by the State Commission that:- "Respondent No.2 and 3 shall not raise any demand of outstanding amount of Rs.2,74,747/- with penal interest from the appellant. However, if there is outstanding due from the appellant, respondent No.2 shall be entitled to recover the said amount but there being a tripartite agreement, respondent No.2 shall not charge any penal interest from the appellant even after settlement of the claim by respondent No.3-LIC. "

For the reasons detailed above, the revision petition No.2149 of 2010 is dismissed on the ground of limitation as also on merits. No order as to costs.