(2004) 07 NCDRC CK 0062

In the National Consumer Disputes Redressal Commission

M. VENKATA RAJU APPELLANT

Vs

Canara Bank RESPONDENT

Date of Decision : 06-07-2004

Acts Referred:

Citation : 2004 3 CPR 518 : 2005 2 CPJ 424

Hon'ble Judges : V.K.Agrawal , Veena Misra , R.S.Awasthis J.

Final Decision : Appeal dismissed

Judgement

1. THIS appeal, under Section 15 of the Consumer Protection Act, 1986, is directed against the order dated 21st June, 2002 in Complaint No. 24/98 by District Consumer Disputes Redressal Forum, Durg (hereinafter called the ''Distt. Forum'' for short) dismissing the complaint of the complainant/appellant herein.

2. THE complainant/appellant averred that his wife Smt. M. Usha Rani is the proprietor of the firm-M/s. Usha Fabricators and Welding Works. THE respondent No. 1/Bank had agreed to finance the said firm to the extent of Rs. 91,500/- in pursuance of the approved project report and as recommended by the Distt. Industries Centre (DIC), Durg. THE complainant/appellant further averred that he signed the documents of loan as one of the co-obligators. It was further averred that despite the project report as above and despite its agreement to finance the whole project to the extent of Rs. 91,500/-, the respondent No. 1/ Bank only released a loan of Rs. 35,000/- and did not release the balance amount of Rs. 56,500/-, till end of the year 1992 despite efforts made by the wife of the complainant. It was also averred by the complainant that respondent No. 1/Bank obtained his signatures on certain blank papers at the time he signed documents as co-obligator of the principal borrower, his wife Smt. Usha Rani. Further averment of the complainant was that as the complainant required a loan of Rs. 4,000/-, he approached the respondent No. 1/Bank for the purpose. THE complainant produced his National Service Certificate (NSC) No. 1679056 dated 28.1.1990 for Rs. 5,000/- for obtaining the said loan. It was averred that the respondent No. 1/Bank retained the said NSC with an assurance that it would be

returned later. However the said NSC was never returned by the respondent No. 1/Bank, to the complainant. It was further averred that the complainant never pledged the said NSC with the respondent No. 1, and that he had also directed the respondent No. 2/post office not to permit its encashment by the respondent No. 1/Bank. However, the respondent No. 2/post office made payment of the maturity amount of the said NSC to respondent No. 1/Bank in January, 1996. THE complainant therefore prayed that the respondent No. 1/bank be directed to refund the amount of Rs. 10,000/- with interest to the complainant. The complaint was resisted by both the respondents. They have filed their separate replies. The substance of the averments of the respondent No. 1/Bank was that the said NSC was pledged by the complainant/appellant in connection with loan obtained by his wife and a letter of pledge dated 1.2.1990 was also executed by the complainant and his wife in favour of respondent No. 1. Accordingly on maturity the amount of Rs. 10,075/- was obtained by respondent No. 1/Bank from respondent No. 2/post office, and the same was adjusted in the loan account of the wife of the complainant. The respondent No. 2/post office filed separate written version and averred that the complainant had given the respondent No. 1 authority to encash the said NSC in the prescribed form to the respondent No. 2. Accordingly on maturity the amount of the said NSC was paid to the respondent No. 1/Bank under the said authority by the complainant/ appellant.

The Distt. Forum in the impugned order held that the NSC was pledged by the complainant with respondent No. 1/Bank and he had consented that maturity amount of the same may be obtained by the respondent No. 1/Bank and be adjusted in the loan account of the wife of the complainant. It was accordingly held that there was no deficiency in service by any of the respondents. The complaint was accordingly dismissed.

3. THE complainant/appellant personally appeared in this appeal and made his submissions at length. He has also filed written arguments. THE respondents'' learned Counsel were also heard and the record of the Distt. Forum was perused. It is now not in dispute that loan was granted by respondent No. 1/Bank to Smt. Usha Rani, the proprietor of the firm M/s. Usha Fabricators and Welding Works. It is also not in dispute that a NSC was purchased by the complainant/appellant on 28.1.1990, and the maturity value thereof was Rs. 10,1075/- which was payable in January 1996. Undisputably, the respondent No. 1/Bank has obtained the maturity value of the said NSC from respondent No. 2/post office, and has adjusted the same in the loan account of the wife of the complainant/appellant. The stand of the complainant was that the said NSC was never pledged with respondent No. 1/Bank and that he had submitted the said NSC with respondent No. 1/Bank in order to secure loan of Rs. 4,000/- for himself. However, the respondent No. 1/Bank did not grant him any loan and did not keep its promise that the said NSC would be returned to the complainant and instead encashed it on maturity and adjusted the said amount in the loan account of his wife. According to the complainant, the respondent No. 1/Bank had no authority to do

so. The stand of the respondent No. 1/Bank however is that the above NSC was duly pledged by the complainant with respondent No. 1/Bank, and accordingly the same was encashed by them and the amount so received was adjusted as mentioned above.

4. IN view of the controversy as above, the main question that arises for consideration is: as to whether the complainant had pledged the said NSC with respondent No. 1 or he had only submitted the said NSC to obtain loan of Rs. 4,000/- for himself? In the above context, it may be noticed that the complainant had submitted form No. 41 in favour of Indian Post and Telegraph in which he has stated that the NSC was pledged by him with the respondent No. 1/ Bank. He has stated in the said application that he agrees that the said certificate would be encashable by the respondent No. 1/Bank. The endorsement to the above effect has been made on the application by the complainant and his wife for purchase of the said NSC and it has been noted therein that the said certificate has been pledged in favour of Canara Bank. The documents as above clearly indicate that the complainant/appellant pledged the said certificate on 1.2.1990 with the respondent No. 1/Bank and authorised the respondent No. 1/ Bank to encash the same. The post office had also been intimated accordingly and an endorsement to the effect was made on the application of the complainant submitted by him for purchase of the said certificate. Therefore, there is hardly any scope for accepting the version of the complainant/appellant that he did not pledge the said certificate with the respondent No. 1/Bank or that he submitted the same to the respondent No. 1/Bank for obtaining loan for himself. The complainant/appellant has tried to state that his signatures were obtained on some blank papers by respondent No. 1/Bank. Moreover the manner and the mode in which the complainant appellant is prosecuting this litigation, clearly indicate that he is very alert and vigilant and is fully aware of his rights. He does not appear to be a person who could be misguided or beguiled by respondent No. 1/Bank to put his signatures on blank papers. Moreover, the document of pledge is dated 1.2.1990 and is in the prescribed form issued by the Indian Post and Telegraph Department, and is in connection with the loan of wife of the complainant obtained much earlier. Therefore, the said application in form No. 11 issued by postal department could not have been available with respondent No. 1/Bank and the Bank could not have asked the complainant to put his signature thereon, when his wife obtained loan. Moreover, the complainant would not have conceded to put his signature on the said form. Therefore, there appears to be no doubt that the execution of the document as above in form No. 41 by the complainant and his wife, was in connection with transaction of pledge as is the stand of the respondent No. 1/Bank. It may be mentioned that several other submissions have been made by the complainant/ appellant at length but in view of the factual position as above, the same do not require further detailed consideration and discussion.

5. ACCORDINGLY we find that the Distt. Forum has after due consideration of the fact and circumstances of the case arrived at the correct findings. The said

findings are affirmed. We find no reason for interference in the impugned order. This appeal has no substance. It is accordingly dismissed. However, the parties are left to bear their own cost as incurred. Appeal dismissed.