(1991) 10 NCDRC CK 0030

In the National Consumer Disputes Redressal Commission

MORZARIA CHARITY TRUST — APPELLANT

Vs

State Bank of India — RESPONDENT

Date of Decision : 09-10-1991

Acts Referred:

Citation : 1992 1 CPJ 348

Hon'ble Judges : R.G.Desai , K.R.Ramaswamy Iyengar J.

Final Decision : Complaint allowed

Judgement

1. THE complainant is a Registered Private Trust. THE Trust represented by its Managing Trustee, opened a Savings Bank Account with the Respondent, bearing No. 246 on 28.3.1985. By a resolution of the Board of Trustees dated 8.3.1985, the Managing Trustee was authorised to open and operate the account. On 10.6.1991, the Managing Trustee wrote to the Respondent to close the said account and to refund the amounts standing to the credit of the Trust. Inspite of reminders to the Bank, it went on postponing the closing of the account and delivering the cheque for the amount due. THE Bank wanted the Managing Trustee to produce the copy of the Trust Deed. THE Managing Trustee sent the copy of the Trust Deed to the Bank under certificate of posting along with the letter dated 25.6.1991. Hence the Managing Trustee has filed this complaint for the following reliefs: 1. To direct the respondent to close the account bearing No. 246 of the Complainant in the Respondent Bank;

2. TO direct the Respondent to deliver the cheque for the entire amount in the credit of the said account of the Complainant; To direct the Respondent to pay interest to the amount in the said account at the rate of 45% p.a. from 10.6.1991 till the date of payment.

To direct the Respondent to pay compensation of Rs. 3 lakhs;

3. ANY other reliefs as deem fit. 2. The Complaint is resisted by the Respondent by contending inter-alia that the complaint is not maintainable as the Complainant is not properly represented; that the complaint is not maintainable

under the Consumer Protection Act; that as the Managing Trustee was authorised by a resolution to open and operate the account he was asked to produce a similar authorisation authorising him to close the account; that as the Complainant did not furnish the Board Resolution he was asked to produce copy of the Trust Deed; that the letter dated 25.6.1991 alleged to have been posted by the Complainant was not received by the Respondent; that the Complainant has not suffered any damage and is not entitled to claim compensation of Rs. 3 lakhs and that the Complainant is not entitled to interest at the rate of 45% p.a. 3. We heard the learned Counsels of both the parties and perused the records available. No oral evidence has lead by either side. 4. It is not disputed by the learned Counsel for the Respondent that the resolution of the Board of Trustee authorising the Managing Trustee to open and operate the account had been produced earlier at the time of opening Savings Bank Account No. 246 on behalf of the Complainant and accordingly the-Managing Trustee had opened the account and was operating the account till 10.6.1991. It is also not disputed that the Managing Trustee wrote a letter dated 10.6.1991 to the Respondent to close the account and to refund the amount outstanding in the said account of the Trust on that day. Earlier resolution authorising the Managing Trustee to open and to operate the account was enough for the Bank to hold that he was authorised to close the account. Closing the account also can be said to be an act of operating the account. Hence, the Bank was not justified in calling upon the Respondent to produce a similar the Board resolution authorising him to close the account or to produce copy of the Trust Deed. It could have acted upon the letter and closed the account and paid the amount outstanding to the account of the Trust. The Complainant has produced Board resolution authorising him to file this complaint. Hence he is entitle to file this complaint. 5. This brings us to the question as to whether Bank is liable to pay any interest for the delay and if so at what rate? The delay is about 4 months from 10.6.1991 till today. The huge amount of the Trust has been kept in S.B. Account earning interest of 5% p.a. The Complainant has not produced any material to show that the Trust has suffered any damage on account of the delay. If the amount had been withdrawn on 10.6.91 and it had been invested in fixed deposit for more than 3 years, it would have earned the interest of 12% p.a. Hence we think it proper to award interest of 12% p.a. from 10.6.1991 till the date of payment. The Bank is also liable to pay costs of Rs. 1,000/- to the Complainant as it has driven the Complainant to file this Complaint by an unjustified action of refusing the closure of the account and paying the amount. In the result, the complaint is allowed. The Respondent Bank is directed to close the Savings Bank Account bearing No. 246 of the Complainant forthwith and to deliver the cheque for the amount outstanding in the said account to the credit of the Complainant as on today, together with interest at the rate of 12% p.a. on the said amount from 10.6.1991 till the date of payment and costs of Rs. 1,000/- (Rupees one thousand only) within 7 days from today. Complaint allowed.

