

(2006) 02 NCDRC CK 0081

In the National Consumer Disputes Redressal Commission

ORISSA STATE FINANCIAL CORPN.

APPELLANT

Vs

BHAWANI SHANKAR MOHANTY

RESPONDENT

Date of Decision : 13-02-2006

Acts Referred:

Citation : 2006 2 CLT 452 : 2006 2 CPC 295 : 2006 2 CPJ 335

Hon'ble Judges : S.N.Kapoor , B.K.Taimni J.

Final Decision : Appeal allowed

Judgement

1. APPELLANT was the opposite party before the State Commission where the respondent/complainant filed a complaint alleging deficiency in service.

2. VERY briefly, the facts of the case are that the appellant had advanced a loan to one of its cleints, since that person was not paying the instalments in time, the vehicle was seized by the appellant-OSFC. This truck was auctioned which was purchased by the respondent/complainant before us on 23.3.1990. Since this vehicle was not in a "road worthy" condition, the appellant further gave Rs. 40,800 for getting the vehicle repaired. Subsequent to this event, when the respondent/complainant was not paying his instalments in time, the vehicle was again seized on 3.5.1994 which was auctioned for Rs. 1,00,000. It is the case of the complainant that the value of the vehicle was Rs. 2,00,000. Thus, alleging deficiency in service on this account and other accounts, the complaint was filed before the State Commission who after hearing the parties allowed the complaint and directed the appellant to pay Rs. 1,00,000 to the respondent/complainant as in their view, the vehicle cost was Rs. 2,00,000 and interest was also awarded for the additional Rs. 1,000 which was to be payable by the appellant. Aggreived by this order, this appeal has been filed before us.

Despite service of notice, none is present for the respondent. We go on to pass the orders after hearing the arguments advanced by the learned Counsel of the appellant and material on record.

3. THERE is no disputing fact that the vehicle purchased by the respondent/

complainant was of the late 70s production and had been seized by the appellant and auctioned in 1990 i.e., almost after over 10 year of its manufacture. THERE is no dispute that the respondent/complainant had purchased this truck for Rs. 1,55,000 and Rs. 40,800 was sanctioned to get the repairs done and to make the vehicle road worthy. This relates to the period of middle of the year 1990. The vehicle was seized for irregular payment on the part of respondent/complainant on 3.5.1994 i.e., after almost 4 years of the auction purchase. The vehicle was sold for Rs. 1,00,000. We are unable to appreciate that how the State Commission could conclude that the price of the vehicle was Rs. 2,00,000 when the auction purchase had almost a year ago paid Rs. 1,55,000 for purchase of the same vehicle. Neither the commonsense nor any fiscal prudence supports this plea. As per material on record six bids were received by the appellant for the said vehicle. The respondent/complainant was also called to match the highest bid or pay the amount. He never turned up. After discussion with the bidders only Mr. Sawain agreed to accept the vehicle for Rs. 1 lakh by paying half of the amount as down payment and rest to be paid on deferred payment. It is common knowledge, that people put in frivolous quotations at time to corner something. The State Finance Corporation, through a resolution (P-39 of Paper Book) decided to accept the plea and to accept the quotation of Rs. 1,00,000. It can be said to be a deficiency in service, for the simple reason no higher bidder was available as per record to make down payment and accept the past liability of the vehicle in question. THERE is no disputing the fact that the vehicle had been seized by the appellant in exercise of Section 29 of the State Financial Corporation Act and they would have been happy to get the better price. No particular mala fide has been attributed or alleged and nor that has been gone into by the State Commission. In the aforementioned circumstances, we are unable to sustain the order of the State Commission which is set aside. Hence, the appeal is allowed and complaint is dismissed. No orders as to cost. Appeal allowed.