(1992) 08 NCDRC CK 0003

In the National Consumer Disputes Redressal Commission

PARDES DEHYDRATION COMPANY — APPELLANT

Vs

Chairman Bank Of India — RESPONDENT

Date of Decision : 03-08-1992

Acts Referred:

Citation : 1992 0 CPC 641 : 1992 2 CPJ 467 : 1992 2 CPR 444 : 1993 1 CLT 222

Hon'ble Judges : V.BALAKRISHNA ERADI , Y.KRISHAN , B.S.YADAV J.

Judgement

1. THE complainant -a partnership firm engaged in the manufacturing and export of dehydrated foods and vegetables, has complained that the Opposite Party -Bank has failed to supply them with certified copy of the affidavit of the then partner Smt. Kamla Desai in which she is said to have stated that certain agricultural property of 5 acres and 37 Gunthas had been registered in her name but that the same had been purchased with the fundus provided by the partnership firm, that the same, was owned, possessed and enjoyed by the erstwhile partnership firm. Further the Bank had also failed to supply a certified copy of an invoice of a boiler. According to the complainant the said land was registered in the name of Mrs. Desai as she was an agriculturist and the land being agricultural could not be transferred under law to the other partners who were not agriculturists. The land is, however, said to have been purchased for Rs. 1,85,156/ - in the name of Mrs. Kamla Desai out of funds provided by the partnership firm in 1982. The partnership firm was dissolved on 14th November, 1983 and a new partnership firm was formed by the three partners of the original firm with the assets and liabilities and in the same name and style of the dissolved partnership. The title deed of the agricultural land was submitted by the previous partnership to the Bank for the purpose of obtaining term loan and cash credit. The new partnership firm continued to pursue the matter of the return of copy of the affidavit of Mrs. Kamla Desai, partner in the dissolved partnership firm etc. With the Bank since 1983 but in vain.

2. THE facts and allegations made in the complaint petition have been altogether controverted by the Opposite Party -Bank in its reply. It is pointed out by the

Opposite Party that the complainant has filed a Civil Suit against the Bank which is pending and that the Bank is going to file a suit for recovery of huge amount which the complainant owes to the Bank. There is dispute about the date on which the affidavit of Mrs. Kamla Desai was executed. The Bank states that the said affidavit of Mrs. Kamla Desai has been lost or misplaced and has not been retrieved so far but that no loss or damage or injury has been caused to the complainant as a result thereof. At the hearing, Counsel for the respondent further pointed out that a criminal complaint has also been lodged by the present partnership firm against Shri Vinod Patel and the Bank on 6th of July, 1991. It is manifest that the cause of action. If any, regarding the failure of the Opposite party -Bank to return the documents, certified copy of the affidavit of Mrs. Kamla Desai and the invoice of boiler, arose in 1983 and the complaint filed in 1992 is hopelessly time barred. The said matter is directly raised in the criminal complaint pending trial before the Criminal Court and we are not inclined to conduct a concurrent adjudication into the question that is sub -judice. The complaint does not disclose any deficiency in service on the part of the Opposite Party -Bank towards the complainant so as to entitle the latter to maintain a complaint before Consumer Forum under the Consumer Protection Act. The complaint is, therefore, dismissed as not being maintainable under the Act. Complaint dismissed. -