**(2008) 03 NCDRC CK 0048**

**In the National Consumer Disputes Redressal Commission**

PRAFULLA KUMAR AGRAWAL APPELLANT

Vs

Narayan Sahu RESPONDENT

**Date of Decision :** 11-03-2008

**Acts Referred:**

**Citation :** 2008 3 CPJ 132

**Hon'ble Judges :** Subash Mahtab , Basanti Devi J.

**Final Decision :** Appeal dismissed

## Judgement

1. -THE aggrieved opposite parties in C. D. Case No. 246 of 1992 before the District Forum, Bargarh have filed this appeal challenging the orders dated 9. 12. 1997 of the District Forum directing them jointly and severally to pay to the complainant Rs. 12,000 only within thirty days, failing which the amount shall carry 12% interest per annum till the date of payment.

2. THE complainant had filed the aforesaid C. D. case alleging deficiency in service against both the opposite parties for not sanctioning the agricultural loan and disbursing the loan amount in his favour in spite of margin money Rs. 35,000 was deposited by him in their Bank viz. State Bank of India, Padampur Branch, Distt. Bargarh and in spite of all the terms and conditions of the Bank were satisfied. The case of the opposite parties, the appellants here, on the other hand is that as the complainant, who is the respondent in the appeal, did not deposit the margin money is not a consumer. Their specific case is that the deposit of money by the complainant in their branch of State Bank of India is in the Savings Bank account of the complainant which is withdrawable. Therefore, said deposit is not margin money for the purpose of sanction of loan. The opposite parties have denied to have caused deficiency in service, in not sanctioning loan in favour of the complainant as margin money, which is a condition precedent to sanction loan, has not been deposited with their Bank, in short, the S. B. I. by the complainant. Both parties have also filed documents in support of their claim including filing xerox copy of passbook showing deposit of money by the complainant in his S. B. I. Account No. Agl-216 in total amounting

 

to Rs. 35,110 as on 10. 4. 1992.

After going through the case of both parties, the District Forum held that after obtaining gold loan from the Bolangir Anchalika Gramya Bank, Padampur on 10. 4. 1992, complainant deposited the amount on the same day in the aforesaid account, which fulfilled the targtet amount of margin money Rs. 35,000. This according to the District Forum, is the normal conduct of the complainant to avail loan from the opposite parties by deposit of aforesaid amount as margin money. The District Forum observed that the opposite parties could have given necessary instruction to the complainant to transfer the deposit under required head, if it was found by them that deposit made by the complainant in his aforesaid account is not a proper procedure. The District Forum also observed that after deposit of aforesaid amount S. B. I. ''s lawyer has given favourabloe report to sanction loan applied for by the complainant and when vide letter dated 20. 4. 1992, the opposite parties had requested Branch Managers of four financial institutions to furnish no dues certificates in respect to the complainant, the opposite parties have acted arbitrarily in not sanctioning the agricultural loan in favour of the complainant. However, the District Forum has taken a liberal view in respect to the opposite parties directing them jointly and severally to pay compensation of Rs. 12,000 to the complainant holding them responsible for causing deficiency in service vide its aforesaid orders dated 4. 12. 1997 as against complainant''s claims of compensation Rs. 65,501.

3. THE opposite parties have challenged the aforesaid orders as illegal, arbitrary and not based on materials available in the record and the C. D. case was not maintainable as complainant is not a consumer. We have heard the learned Counsel appearing from both sides and perused the xerox copies of documents filed in the case.

4. IT is not disputed by the opposite parties that complainant had applied for an agricultural loan in order to purchase a tractor to State Bank of India, Padampur Branch. It is not disputed that the State Bank of India through opposite parties have denied sanction of such loan in favour of the complainant as he has failed to deposit margin money Rs. 35,000 which is a condition precedent to sanction loan. It is not disputed by the opposite parties that Bank''s lawyer has recommended for agricultural loan in favour of the complainant who is eligible for such loan having 9-42 standard acres of cultivable land. In view of the case of both parties, first of all question arises as to whether the complainant had failed to deposit the margin money Rs. 35,000, for which opposite parties could not proceed with sanction of said loan in his favour. It is not disputed that original complainant-Narayan Sahoo had a current account bearing No. Agl-216 in the S. B. I. , Padampur Branch and as per the passbook entry by 20. 3. 1992, the deposit was Rs. 6,005. According to the complainant he incurred gold loan of Rs. 29,105 on 10. 4. 1992 and deposited this amount in the said account on the very same day. The xerox copy of the passbook shows deposit of such amount in the said account on 10. 4. 1992 and his total amount of deposit till date was Rs.

 

35,100. Narayan Sahoo, vide his letter dated 20. 4. 1992 wrote to Branch Manager of S. B. I. , Padampur (xerox copy of the letter filed) requesting to allow him to bring no dues certificate from all financial institutions so that the loan can be finalized in the month of April before starting of agricultural operation in the month of June. In this letter, Narayan Sahoo has clearly stated to have already deposited margin money and had also requested to advise him in case there is any lacuna in the proposal to be rectified. The opposite parties, thereafter, requested vide letter dated 20. 4. 1992, four financing Banks to grant no-dues certifficate in respect to Narayan Sahoo and the four Banks have given such certificates over the said letter (xerox copy of said letter and no-dues certificates filed ). These letters thus clearly establish that on event of deposit of margin money in the aforesaid account on 10. 4. 1992 by Narayan Sahoo, the opposite parties had started processing for sanction of loan and at the beginning had called for no-dues certificates from aforesiad financing Banks. Opposite parties have not intimated to Narayan Sahoo or explained as to why they have stopped process of sanction of loan thereafter. In case, opposite parties felt that complainant has not deposited the margin money in proper head as was required, opposite parties could have advised him in this respect. Therefore, the District Forum has rightly held that the complainant''s deposite of Rs. 35,000 in A/c. No. Agl-216 as on 10. 4. 1992 was intended by him as the margin money accepting which follow-up action as aforesaid was taken by the opposite parties. Thus, according to the District Forum, opposite parties have arbitrarily refused to sanction agricultural loan in spite of the requisite conditions were fulfilled by Narayan Sahoo. Therefore, we are in complete agreement with the aforesaid findings of the District Forum that opposite parties jointly and severally, have caused deficiency in service to the complainant-Narayan Sahoo in not sanctioning agricultural loan in his favour. Now, question arises as to whether complainant is a consumer under opposite parties. Deposit of margin money being a condition precedent of sanction of loan, it is a consideration for hiring service of grant of loan by the opposite parties for cultivation of his own cultivable land. In this end of the view, Narayan Sahoo and after his death, his substituted legal heirs, are consumers under Section 2 (1) (d) (ii) of the Consumer Protection Act.

5. IN view of the observation made above, we find there is no ambiguity and illegality in the impugned orders dated 9. 12. 1997 of the District Forum.

6. THEREFORE, the appeal is dismissed on contest without cost. The impugned order dated 9. 12. 1997 of the District Forum is confirmed. The learned Counsel for the respondents having moved by filing a memo to award compensation in favour of the widow of Narayan Sahoo for self and on behalf of the other substituted legal heirs of late Narayan Sahoo, it is directed that the compensation and interest awarded vide impugned orders dated 9. 12. 1997 are to be handed over to the wife of Narayan Sahoo (since dead), namely Smt. Tapaswini Sahu. Records received from the District Forum may be sent back forthwith. Appeal dismissed.