(2011) 01 NCDRC CK 0064

In the National Consumer Disputes Redressal Commission

Prayagbai W/o Baburao Sarukh APPELLANT

Vs

CHIEF EXECUTIVE OFFICER RESPONDENT

Date of Decision : 12-01-2011

Acts Referred:

Citation : 2011 0 NCDRC 62 : 2011 1 UC 577

Hon'ble Judges : Suresh Chandra J.

Advocate : Vinayak N.Upadhya

Judgement

1. CHALLENGE in this revision petition is to the order dated 19.11.2009 passed by the State Consumer Disputes Redressal Commission, Mumbai Circuit Bench, Aurangabad (''State Commission'' for short) reversing the order dated 07.06.2005 passed by the District Forum in complaint case no.28/1999, while allowing the appeal of the OP/Respondents against that order. Briefly stated, the facts of this case are that the complainant, petitioner herein, was sanctioned a loan by the respondent Bank for construction of a hotel building and also for purchase of furniture and other fixtures. According to the complainant, she had purchased electrical goods worth Rs.93,230/- from a local dealer. Since only 50% of the total amount required by her for the building and furniture etc., had been sanctioned by the Bank as loan, she remitted 50% of the value of the electrical goods, i.e., Rs.46,615/- (half of Rs.93,230/-) directly to the concerned local supplier and requested by application dated 11.01.1999 to the respondent Bank to make payment of the remaining 50% value of the electrical goods under the bill for those goods but despite repeated requests, the respondent Bank did not make payment to the supplier of the electrical goods and thus she sustained loss of earning though the construction of the hotel was complete because the lodging house could not be started for want of furniture, fixtures and other required articles. A notice was issued to the Bank and eventually the present consumer complaint came to be filed by the complainant/petitioner before the District Forum for disbursing the loan in terms of the sanction agreement and also for compensation of Rs.2,25,000/- along with damages of Rs.50,000/- and interest on the invested amount. On appraisal of the issues and hearing the

parties, the District Forum allowed the complaint by directing the respondents to pay Rs.2,00,000/- towards the compensation with interest @ 6% p.a. along with cost of Rs.2,000/-. The respondents carried the matter in appeal to the State Commission challenging the order of the District Forum, where after hearing the parties, the State Commission allowed the appeal, dismissed the consumer complaint and the order of the District Forum was set aside.

2. SINCE the disbursement of loan was subject to the terms and conditions contained in the loan sanction agreement dated 02.01.1999, we directed the petitioner to produce copy thereof for our perusal and further consideration. Today, learned counsel has filed a copy of the loan sanction order dated 02.01.1999 in question, which has been perused by us. It is seen that only 50% out of the total amount applied for has been sanctioned as loan to the petitioner. In terms of the loan sanction order, admittedly as per the request of the complainant, after depositing 50% amount, the respondent Bank had earlier disbursed an amount of Rs.2,37,800/- to the modern glass and furniture for supply of furniture and other fixtures out of the total loan amount. However, as recorded by the State Commission in its order, the said furniture dealer had not supplied the furniture and fixtures to the complainant, which came to the notice of the respondent Bank during an inspection carried out by it. The contention of the OP Bank was that as per the loan sanction conditions, the complainant did not deposit 50% of the value of the electrical goods and only sent an intimation to the respondent Bank that the amount had been directly paid to the electrical goods dealer and requesting the Bank to pay the balance amount to the dealer which was not complied with by the Bank. In view of this, the short question, which has arisen for consideration in the matter, is as to whether the action taken by the respondent Bank in insisting on the deposit of 50% amount with it before releasing the total amount to the electrical goods dealer was justified. Perusal of the loan sanction order and also the earlier action on the part of the complainant to deposit 50% amount of the cost of furniture and other fixtures clearly indicates that the complainant was required to deposit 50% of the cost of the electrical goods with the Bank which she failed to do thereby contravening the terms and conditions of the loan sanction order. The footnote appended to the loan sanction order also indicates that the bill is to be prepared in the joint name and the demand draft is to be issued in the name of the dealer after bill in question is cleared on the certificate issued by the architect/engineer of the Bank. SINCE the complainant herself did not take necessary action in terms of the loan sanction order, no fault could be found with the refusal of the respondent Bank to release the amount to the electrical goods dealer. The District Forum apparently erred in ignoring this important aspect while accepting the complaint. The State Commission, therefore, was justified in setting aside the order of the District Forum while accepting the appeal of the respondent Bank and dismissing the complaint. The revision petition filed by the petitioner/ complainant, therefore, is liable for dismissal and the same is dismissed at the threshold with no order as to costs.