(2017) 05 NCDRC CK 0018

In the National Consumer Disputes Redressal Commission

Case No : 2456 of 2016

RAJASTHAN HOUSING BOARD & ANR. — APPELLANT

Vs

SATISH KUMAR BUDANIYA S/O. SHRI MANGLARAM JAT — RESPONDENT

Date of Decision : 15-05-2017

Acts Referred:

Citation : (2017) 05 NCDRC CK 0018

Hon'ble Judges : Rekha Gupta

Advocate : ANUJ BHANDARI

Judgement

1. The present first Revision Petition has been filed by the Petitioners against impugned order dated 13 th May, 2016 passed by Rajasthan State Consumer Disputes Redressal Commission at Jaipur (for short, ''the State Commission'') in First Appeal No.1178 of 2015.

2. Brief facts are of the case as per Respondent/Complainant are that the Respondent/Complainant was allotted a House No.8/631 under ''Mukta Prasad Nagar Yojna, Bikaner'' vide allotment letter dated 29.03.2010 and the last date of taking possession of the house was 28.06.2010. On 22.06.2010, after thorough inspection of the house, the Respondent decided not to take the house and requested the Petitioners to refund the deposited amount of Rs.2,50,000/-. The main grievance of the Respondent against the Petitioners was that, even after repeated reminders sent by Respondent, the Petitioners have refunded only Rs.2,38,000/- on 13.10.2010, out of the total deposited amount of Rs.2,50,000/-, by wrongly deducting 12,000/- being 20% of the deposited amount, as per Rule No.9 of the ''Disposal of the Property Regulation 1970''. This was against law because these Regulations were not applicable to the Respondent. His case fell under Rule 1.15.4 of the ''Registration and Allotment of House, 1981'', vide which the Petitioners can deduct only Rs.2,500/- from the deposited amount of the Respondent. Hence, the Respondent has filed a Consumer Complaint before the District Forum seeking directions to the Petitioners to pay the interest on the refunded amount Rs.2,38,000/- due to

delay of three months and also to refund Rs.12,000/- along with interest, which was wrongly deducted from his deposited amount while as per rules only an amount of Rs.2,500/- could be deducted. Hence, balance amount of Rs.9,500/- along with interest may be refunded to the Respondent and appropriate compensation amount may be also awarded in his favour.

3. Petitioners filed their written statement and denied all the allegations of the Respondent

4. District Forum vide order dated 25.08.2015, allowed the Complaint and directed the Petitioners to refund a sum of Rs.9,500/- which was wrongly deducted in excess from his deposited amount along with interest @ 9% per annum from the date of filing of Complaint i.e. on 14.06.2011 till realization and also to pay a sum of Rs.1,500/- being compensation and cost of litigation. The order was to be complied within one month, failing which it would carry interest @ 9% P.A. on Rs.1,500/-.

5. Aggrieved by the District Forum Petitioners, filed Appeal before the State Commission, which vide impugned order dated 13.05.2016 dismissed the same and awarded a sum of Rs.5,100/- to the Respondent being cost of litigation of the Appeal . 5. Hence, the present Revision Petition.

6. Admittedly, the Petitioners have refunded the deposited amount of Rs.2,38,000/- on 13.10.2010 to the Respondent after deducting the alleged amount of Rs.12,500/- being 20% from the deposited amount. While the Respondent has filed the Consumer Complaint in the year 2011. Now about seven years have elapsed. The amount involved in this case is Rs.9,500/- along with interest @ 9% P.A. and also Rs.1,500/- and Rs.5,100/- being cost of the litigation awarded by the Fora below.

7. Hon''ble Apex court in Gurgaon Gramin Bank Vs. Khazani and Another, IV (2012) CPJ 5 (SC) observed;

" 2. Number of litigations in our country is on the rise, for small and trivial matters, people and sometimes Central and State Governments and their instrumentalities Banks, nationalized or private, come to courts may be due to ego clash or to save the Officers'' skin. Judicial system is over-burdened, naturally causes delay in adjudication of disputes. Mediation centers opened in various parts of our country have, to some extent, eased the burden of the courts but we are still in the tunnel and the light is far away. On more than one occasion, this court has reminded the Central Government, State Governments and other instrumentalities as well as to the various banking institutions to take earnest efforts to resolve the disputes at their end. At times, some give and take attitude should be adopted or both will sink. Unless, serious questions of law of general importance arise for consideration or a question which affects large number of persons or the stakes are very high, Courts jurisdiction cannot be invoked for resolution of small and trivial matters. We are really disturbed by the manner in which those types of matters are being brought to courts even at the level of Supreme Court of India and this case falls in that category ."

The Apex Court further held;

" 10 . The Chief Manager stated in the affidavit that no bill was raised by the counsel for the bank for conducting the matter before the National Consumer Dispute Redressal Commission. We have not been told how much money has been spent by the bank officers for their to and fro journeys to the lawyers'' office, to the District Forum, State Forum, National Commission and, to the Supreme Court. For a paltry amount of 15 ,000/-even according to the affidavit, bank has already spent a total amount of 12 ,950/- leaving aside the time spent and other miscellaneous expenses spent by the officers of the bank for to and fro expenses etc. Further, it may be noted that the District Forum had awarded 3,000/-towards cost of litigation and compensation for the harassment caused to Smt. Khazani. Adding this amount, the cost goes up to 15,950/-. Remember, the buffalo had died 10 years back, but the litigation is not over, fight is still on for 15,000/-.

11. Learned counsel appearing for the bank, Shri Amit Grover, submitted that though the amount involved is not very high but the claim was fake and on inspection by the insurance company, no tag was found on the dead body of the buffalo and hence the insurer was not bound to make good the loss, consequently the bank had to proceed against Smt. Khazani.

12 . We are of the view that issues raised before us are purely questions of facts examined by the three forums including the National Disputes Redressal Commission and we fail to see what is the important question of law to be decided by the Supreme Court. In our view, these types of litigation should be discouraged and message should also go, otherwise for all trivial and silly matters people will rush to this court.

13 . Gramin Bank like the appellant should stand for the benefit of the gramins who sometimes avail of loan for buying buffaloes, to purchase agricultural implements, manure, seeds and so on. Repayment, to a large extent, depends upon the income which they get out of that. Crop failure, due to drought or natural calamities, disease to cattle or their death may cause difficulties to gramins to repay the amount. Rather than coming to their rescue, banks often drive them to litigation leading them extreme penury. Assuming that the bank is right, but once an authority like District Forum takes a view, the bank should graciously accept it rather than going in for further litigation and even to the level of Supreme Court. Driving poor gramins to various litigative forums should be strongly deprecated because they have also to spend large amounts for conducting litigation. We condemn this type of practice, unless the stake is very high or the matter affects large number of persons or affects a general policy of the Bank which has far reaching consequences.

14. We, in this case, find no error in the decisions taken by all fact finding authorities including the National Disputes Redressal Commission. The appeal is

accordingly dismissed with cost of 10 ,000/- to be paid by the bank to the first respondent within a period of one month. Resultantly, the Bank now has to spend altogether 25,950/- for a claim of 15 ,000/-, apart from to and fro travelling expenses of the Bank officials. Let God save the Gramins ."

8. In view of the principle of law laid down in Gurgaon Gramin Bank (Supra), as paltry amount of Rs.9,500/- along with interest @ 9% P.A. thereon and Rs.1,500/- and Rs. 5,100/- being the cost of litigation as awarded by the Fora below only is involved and this litigation is going on for about 6 years, therefore this Commission is not inclined to entertain this Petition. However, question of law raised in this petition is kept open, to be decided in an appropriate case, where stakes are high and amount involved is substantial.

9. With these observations, the Revision Petition stands disposed of.

