(2000) 02 NCDRC CK 0085

In the National Consumer Disputes Redressal Commission

RAM VIR SINGH APPELLANT

Vs

Canara Bank RESPONDENT

Date of Decision : 04-02-2000

Acts Referred:

Citation : 2000 1 CPJ 526 : 2000 2 CLT 483 : 2000 2 CPC 256 : 2000 2 CPR 320

Hon'ble Judges : K.C.Bhargava , D.D.Bahuguna J.

Final Decision : Complaint dismissed

Judgement

1. THIS is a complaint for recovery of Rs. 8,63,000/- as compensation and damages. The facts of the case stated in brief are that the opposite party, Canara Bank, had sanctioned a loan of Rs. 1,84,500/- for purchase of a bus in the year 1982 to the complainant. The complainant raised his contribution of Rs. 65,500/- and purchased a bus No. UPT 4418. He started plying the bus with effect from 21.1.1983. The complainant repaid a sum of Rs. 1,17,675/- out of the loan to the opposite party.

2. CERTAIN defects were developed in the bus on account of which the loan could not be repaid during 1986. The custody of the bus was given to the Bank vide application dated 30.6.1986 for its safe custody and security. The bus was taken into possession the same day by the Bank Authorities and was entrusted to M/s. Gopal Rice Mills, Awagarh, Etah. At the time of handing over the bus, the vehicle was in perfectly running condition. On 7.10.1986 the applicant applied to the Bank for handing over the bus to him and deposited a sum of Rs. 25,000/- towards the loan amount. The bus required an investment of Rs. 40,000/- for making it road-worthy. When no action was taken on that application, reminder was issued on 20.11.1986. No action was taken and then an application was again given to the Chairman of the Canara Bank on 6.1.1987, but a new guarantee was ordered to be filed by the new Branch Manager. A sum of Rs. 5,000/- was also deposited towards the instalment of loan. The new guarantee was given and documents were submitted and deposit of receipts of Rs. 8,700/- was also submitted but even then no action was taken for release of the bus.

Thereafter a number of requests were made to the Bank but nothing could be done. Hence a legal notice was issued to the Bank for this purpose. Then steps were taken for equitable mortgage and the report of the Advocate of Civil Court of Aligarh Sri S.R. Manuja was also submitted. Even then the bus could not be released. Thereafter the bus was released and was handed over to the complainant on 23.11.1990. It is mentioned that the Bank unnecessarily retained the bus in its custody from 7.10.1986 to 22.11.1990. There was no just and reasonable cause for not handing over the bus to the complainant. The complainant suffered heavy loss of business and has claimed compensation as stated in the earlier part of the judgment.

It has further been alleged that on account of lapse of the Bank, intimation about surrender of the vehicle to the Bank by the complainant and not plying the bus on the road could not be given to the Regional Transport Officer resulting in accumulation of road tax for which the complainant made a representation but the same was not decided by the Regional Transport Officer inspite of orders in two writ petitions by the Hon''ble High Court. The Bank is also liable to pay the amount of road tax payable on the bus.

3. IN the written statement opposite parties have admitted the loaning of the amount, purchase of the bus and handing over the same to the Bank for safe custody. According to the Bank a suit for recovery of Rs. 49,117.59 was filed by the Bank against the complainant in the Court of Civil Judge, Etah which is still pending. The Bank has denied its liability for payment of any damages and has alleged that the bus was released as soon as the formalities were completed by the complainant. After the filing of the written statement the opposite parties did not appear and hence the case proceeded ex parte against them.

4. WE have heard learned Counsel for the complainant. The first question which arise in the present case is whether there is any question involved of rendering of service and deficiency in the same. According to the allegations of the complainant and the arguments of the learned Counsel for the complainant, it will be apparent that the complainant had taken a loan from the Bank for purchase of the bus. As the complainant could not pay back the amount of loan in instalments, he, therefore, surrendered the bus to the Bank for its safe custody. According to the complainant, the bus was not released on time and hence the complainant had to suffer loss in the business and the road tax was levied which was paid. According to learned Counsel two writ petitions had to be filed by the complainant for getting the bus released from the Tax Department. It has further been argued that the Bank did not inform the R.T.O. that the bus is not being plied and hence the Bank is also liable to pay damages on this account. None of these evidences which has been brought out in the complaint or during the course of arguments by the learned Counsel for the complainant involves rendering of service by the Bank to the complainant for which the complainant may be termed as consumer within the meaning of Section 2(d) of the Consumer Protection Act. If there was any negligence on the part of the Bank in not

returning the bus on account of which the complainant suffered loss and his business or accumulation of road tax, then he could approach the proper Forum which is certainly not under the Consumer Protection Act. He may file a civil suit or take any action which is available to him.

5. THEREFORE on the basis of facts on record we find that there is no dispute about the rendering of service by the Bank to the complainant. Thus the complaint does not lie. The complaint is therefore liable to be dismissed. Order The complaint is dismissed. However, there will be no order as to the costs as the opposite parties have not appeared. Let copy of this order be made available to the parties as per rules. Complaint dismissed.

