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In the National Consumer Disputes Redressal Commission

Case No : 2738 of 2014

ROOP KRISHAN KHANNA — APPELLANT

Vs

STATE BANK OF INDIA & 3 ORS. — RESPONDENT

Date of Decision : 13-08-2015

Acts Referred:
Consumer Protection Act, 1986, Section 21(b) - Jurisdiction of the National Commission

Citation : 2016 1 CPJ 171

Hon'ble Judges : V.K. Jain, Dr. B.C. Gupta

Advocate : Karan Dewan, U.C. Mittal, Sangram S. Saron

Judgement

1. This revision petition has been filed under section 21(b) of the Consumer Protection Act, 1986 against the impugned order dated 13.02.2014, passed by the Punjab State Consumer Disputes Redressal Commission (hereinafter referred to as the State Commission) in First Appeal No. 1224/2012, "State bank of India, Ferozepur Cantt vs. Roop Krishan Khanna & Ors.", vide which, while accepting the said appeal, the order dated 27.04.2012, passed by the District Consumer Disputes Redressal Forum, Ferozepur, allowing the consumer complaint No. 197/2012 filed by the present petitioner/complainant was set aside and the consumer complaint was ordered to be dismissed.

2. Briefly stated, the facts of the case are that the petitioner/complainant Roop Krishan Khanna, who states himself to be President of Vikas Cooperative House Building Society Ltd., Ferozepur, filed the consumer complaint in question before the District Forum, alleging that three fixed deposit receipts (FDRs) were got issued from OP-1 State Bank of India, Ferozepur Cantt. Branch, after depositing different amounts of money with them, that was collected from the members of the Society. An amount of _21,333/- was deposited vide receipt No. SD/A/67 bearing number 143761 and the same was to mature on 06.04.2011 with a maturity value of 31,057/-. There was another FDR SD/A/67 ? 143762, which was to mature on 06.04.2011 with maturity value of 2,29,100/-. There was a third FDR also vide receipt number SD/A/67 ? 143760 which was to mature on

06.04.2011 with a value of 1,01,573/-. The said FDR has been wrongly issued in the joint name of Deputy Commissioner, Ferozepur and President Vikas House Building Society Limited, although there was no document on record to prove that the name of the Deputy Commissioner was to be incorporated in the same. The original FDRs were in possession of the Bank, as the same were handed over to the Bank at the time of renewal, but the bank refused to return the same to the petitioners on the plea that some other members of the society had given applications for not handing over the FDRs to the complainant. The complainant stated that the Vikas Cooperative House Building Society Limited was not a part of Ferozepur Cooperative Satluj House Building Society and orders to this effect were passed by the Joint Registrar, Cooperative Societies, Ferozepur on 16.04.2010. Vide aforesaid order, the Joint Registrar had disqualified Jagir Kaur, OP-2 from the Society, being not a primary member of the Society. According to the complainant, the elections to Managing Committee of the Society were held on 19.11.2010 in a meeting presided over by the Administrator of the Society, in which the petitioner Roop Krishan Khanna and some others were elected as members of the Managing Committee and thereafter on 17.12.2010, the petitioner was elected as President of the Society. He approached the OP Bank for the release of the amount involved in the FDRs and also issued a legal notice to them, but they failed to return the amount to the Society. The consumer complaint was then filed, seeking directions to OP-1 Bank to release the amount of FDRs and also to pay 50,000/- as compensation on account of mental harassment and 11,000/- as litigation cost.

3. The complaint was resisted by the OP-1 Bank by filing written statement before the District Forum in which they stated that the said society had been divided into two different societies, but the second society had not been impleaded as a party in this case and hence, the complaint deserved to be dismissed on that ground alone. Further, one of the FDRs was in the joint name of Deputy Commissioner and the Society, while two other FDRs were under the lien of HOUSEFED Ferozepur and hence, the HOUSEFED was also a necessary party in the matter. The OP stated that the complaint was time-barred and should be dismissed on that ground.

4. The District Forum after taking into account the evidence of the parties allowed the complaint by their order dated 24.07.2012, saying that duplicate FDRs should be issued in the name of the President of the Society and after getting the formalities of signatures of the complainant and other members of the society and after presenting of the said FDRs, the amount should be released in favour of the society through its President. The District Forum also awarded a compensation of 3,000/- and 1,000/- as litigation expenses. On an appeal filed against this order by OP-1 Bank before the State Commission, the said order was reversed saying that the authorisation to the complainant was given only for operating the account and hence, he could not get the FDRs encashed. The State Commission set aside the order of the District Forum with the implication that the consumer complaint should be dismissed.

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5. There was a delay of 36 days in filing the revision petition. An application for condonation of delay was filed by the petitioner whose notice was served upon the respondents. The application was allowed after hearing the counsel for the petitioner and considering the pleas taken in the said application.

6. The basic issue that arises for our consideration is whether the maturity value of the three FDRs in question should be returned to the Society or not. The fact that the three FDRs in question were made with the Bank from the money collected from the Members of the society has not been denied anywhere. There is also no dispute about the maturity value and maturity date of the said FDRs. It is evident that the OP Bank is required to return the maturity amount to the investors. The only issue to be decided is the manner and to whom the money is to be paid by the bank. The petitioner/complainant Roop Krishan Khanna claims to be the president of the Society. According to him, a meeting of the General House of the society was held on 11.10.2010 under the chairmanship of Lekh Raj, Administrator in which it was decided to hold the elections to the managing committee of the society on 19.11.2010. In the said elections, six members of the Managing Committee were elected including the petitioner. Thereafter, Roop Krishan Khanna was elected as President of the Society on 17.12.2010.

7. The OP-1 Bank in their reply to this version have stated that as per their knowledge, no evidence/information was given to the other members of the society while passing a resolution and conducting elections. They have also stated that out of 18 members of the society, 12 members did not participate in the conduct of the said elections and passing the resolution. We, however, do not find any reason to agree with the stand taken by the OP Bank. They have no locus-standi to comment upon the manner or legality of the elections so conducted. It is the job of the State Department of Cooperative Societies to ensure that the affairs of registered cooperative societies are run in accordance with the relevant legal provisions. The meeting is stated to have taken place under the chairmanship of Sh. Lekh Raj, Administrator who invariably, is an officer belonging to the State Department of Cooperative Societies. There is nothing on record to prove that the said elections were bad in the eyes of law. In the proceedings before us, OP-2 and OP-4 Jagir Kaur and Kulwant Singh were represented through counsel but they never stated anywhere

that the complainant had not been duly elected as office bearer of the Society. In their reply to the revision petition filed on behalf of respondent no. 4, Kulwant Singh, it has been alleged that the elections were held in a fraudulent manner and that the complainant and J.P. Upadhyay declared themselves to be the President and Secretary of the Society, surreptitiously. This version, however, cannot be believed, because if the elections were not held in accordance with law, respondent no. 2 & 4 were at liberty to challenge the same before the concerned authorities for which detailed provisions have been made under the State Cooperative Societies Act and the rules and byelaws framed thereunder. The OPs have, therefore, not been able to establish that the officer bearers of the

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Society have no locus standi to receive the maturity proceeds of the FDRs, in question.

8. In so far as one of the FDRs being in the joint name of Deputy Commissioner is concerned, the same has no material bearing on the outcome of the present case. A Deputy Commissioner is the Head of Administration in a Revenue District in a State. He is not concerned with the day-to-day affairs of the Society or with the management of its funds. It is very clear that the funds, in question, belong to the members of the society and the same have to be returned to the society by the Bank after the maturity date is reached. In any case, it is crystal clear that the Bank has no authority or justification to retain these funds, after the maturity date is reached.

9. At the time of hearing before us, the learned counsel for the petitioner was asked to provide the particulars of the bank account held in the name of the society because the money, in question, as discussed above, belongs to the Society and it has to go into the account of the Society. The learned counsel for petitioner did provide the details as account number 10362011003935, Oriental Bank of Commerce (OBC) at MLM School, Ferozepur City, Punjab, IFSC Code as ORBC0101036 and date of opening the account as 08.01.2007. The OP-1 Bank is, therefore, directed to return the maturity value of the said FDRs alongwith interest as for savings account for the period, w.e.f. the date of the maturity of the FDRs till date, directly to the aforementioned account of the Society after carrying out due verification of the same and after collecting the relevant documents.

10. This revision petition is, therefore, allowed, the order passed by the State Commission is set aside and the OP Bank is directed to transfer the said amount to the account of the Society. The other direction given in the order of the District Forum for payment of 3,000/- as compensation for mental harassment and 1,000/- as cost of litigation is also upheld. The OP-1 Bank is directed to comply with the order within a period of 30 days from the date of receipt of the copy of this order. There shall be no order as to costs.

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