(2006) 05 NCDRC CK 0060

In the National Consumer Disputes Redressal Commission

SADASHIV MAHADEV BHISE APPELLANT

Vs

Bank of India RESPONDENT

Date of Decision : 15-05-2006

Acts Referred:

Citation : 2006 2 CPR 386 : 2006 3 CPJ 46

Hon'ble Judges : S.N.Kapoor , P.D.Shenoy J.

Final Decision : Ordered accordingly

Judgement

1. THE complainant had purchased a piece of land measuring 11 Gunthas located at Amboli, Maharashtra for commercial purpose on 1.3.1996 and prepared a project for construction of a Tourist Hotel at a cost of Rs. 60 lakhs for which he sought loan of Rs. 25 lakhs from the local branch of Bank of India. THE complainant produced the search report and also the valuation report prepared by the authorized person of the Bank. THE complainant visited the Bank to pursue the matter. As the loan application was not considered he filed a complaint before the Consumer Disputes Redressal Commission, Maharashtra, claiming Rs. 11,36,600 with 18 interest thereon. Though the complainant is a freedom fighter and had applied for the loan on 15.1.1998, and the search report and valuation reports were submitted on 13.3.1998 and 22.9.1998 respectively he expressed his inability to mortgage his flat for obtaining loan and also inability of his son to join him in his business as he is in semi-Government service. THE Bank after careful scrutiny of the documents rejected the request for sanction of loan on 14.1.1999.

2. THE State Commission after hearing the parties has dismissed the complaint on 26.8.2005 holding that it is the sole discretion of the Bank to grant or reject the loan proposal. So there is no deficiency in rendering service on the part of the O.P. Bank. Aggrieved and dis-satisfied by the order of the State Commission, the complainant had filed this appeal before us. He has inter alia urged the following grounds: (1) The Complaint No. 330 of 1999 was heard by Hon''ble Member Mrs. Anjali Karadhkhedkar and Mrs. S.G. Nagarale in absence of Hon''ble

President Mr. B.B. Vagyani on 26.8.2005, however, the order passed on 6.10.2005 bears the signatures of President Mr. B.B. Vagyani and Hon''ble Member Mrs. S.G. Nagarale and hence prima facie the order passed is illegal and bad in law.

(2) The claim of the appellant for damages has been rejected by the learned Members for the reason that it is the discretion of Bank to grant or reject loan proposal completely ignoring the fact that the reason given by the Bank was ''caption business did not suit to the Bank''. If that was so the Bank should not have processed the loan application and asked the appellant to bring various reports from the persons approved by the respondent Bank. Further the Bank should not have granted loan to the Hotel Green Palace.

Findings:

A perusal of the order of the State Commission indicates the following Coram: 1. Mrs. Anjali Karadkhedkar, Hon''ble Member 2. Mrs. S.G. Nagarale, Hon''ble Member But the order is signed by the following: Sd/- Sd/- [S.G. Nagarale] [B.B. Vagyani] Member President

3. THE submission of the applicant is that the President Mr. B.B. Vagyani who was not present during the hearing has signed this order appears to be correct. A perusal of the records indicates that the applicant has filed documents relating to the ownership of land at Village Amboli and also shares worth Rs. 4.00 lakhs. The complainant has also spent Rs. 15,000 to Rs. 16,000 for obtaining the valuation report from the Bank''s approved architect and also the title clearance certificate from the Bank''s approved Advocate.

4. IT is true that the complainant has submitted a letter dated 16.11.1998 which makes his position clear. IT indicates that his son is the legal heir to the assets and he is serving in Hindustan Petroleum in Bombay. Being a semi- Government servant he cannot join as a partner. But as a legal heir he is bound to repay the loan and he is also responsible for whatever liabilities left behind by his father will be inherited by him. Secondly, the flat owned by him has already been mortgaged with Bombay Municipal Corporation. It will automatically redeemed in the year 2000 and after that he will mortgage the same to the Bank. Thirdly, he has immovable assets of 1/3rd share of the land of his father for which records have been submitted to the Bank.

5. FOURTHLY, the total costs of the project is Rs. 55 lakhs and he has spent Rs. 30 lakhs and the same has been certified by the architect of the Bank.

6. AS the Bank has extended loan facility to another Hotel the reason for rejection by the Bank ''caption business did not suit the Bank'', does not appear to be fully correct. As all these points are required to be reconsidered afresh, we hereby set aside the order of the State Commission dated 26.8.2005 and remand the case back to the State Commission for fresh disposal as per law. There shall be no order as to cost.

Parties are directed to appear before the State Commission on 3rd July, 2006. Ordered accordingly.

