
(1993) 07 NCDRC CK 0026

In the National Consumer Disputes Redressal Commission

SECRETARY, GRAMIN CONSUMERS LABOURERS ASSOCIATION	APPELLANT
Vs	
Managing Director, Orissa State Financial Corporation	RESPONDENT

Date of Decision : 24-07-1993

Acts Referred:

Citation : 1993 3 CPJ 1686

Hon'ble Judges : S.C.Mohapatra , R.N.Panigrahi , J.Patnaik J.

Final Decision : Appeal allowed

Judgement

1. APPELLANTS purchased a truck on 13.11.1980 with financial assistance of opposite party. This truck was seized in exercise of powers under the State Financial Corporation Act for non-payment of dues on 9.1.1983. It was sold in auction for Rs.1,92,000/- on 21.1.1983 for realisation of Rs. 1,29,000/-. APPELLANTS were to get back Rs. 63,000/-. This, amount not being recovered and clearance certificate not being given appellant gave legal notice to opposite party on 25.1.1985. Hence a complaint under the Act was filed alleging deficiency in service. 2.Opposite party stated that balance sale proceeds of Rs. 63,000/- was received only on 16.3.90 from the auction purchase after which clearance certificate was given to the purchaser on 16.11.1991. After meeting the total expenses balance left was Rs. 14,343.07 paise. It is held in trust for being paid to the person entitled as provided in Section 29(4) of the State Finance Corporation Act and there is no obligation to pay any amount to the borrower. 3.District Forum having directed refund of the amount of Rs. 14,843/- to appellant No. 2 as agreed to by opposite party and dismissed the complaint in respect of the balance as barred by limitation. This appeal is filed against the aforesaid order. There is no appeal by opposite party. 4. Complainants have filed a letter dated 8.2.1982 where opposite party intimated the nature of transaction with the purchaser. We find no jurisdiction why the bid on down payment of Rs. 65,000/- by the purchaser with balance to be paid in monthly instalments of Rs. 6000/- with interest was accepted. This offer could have been given to complainants also. However, we do not want to open the said issue when complainants accepted the same. Accommodation to purchaser to pay Rs.

50,000/- immediately and to take delivery of the truck on payment of balance of Rs.15,000/- out of the down payment appears to be a favouritism. Besides, having accommodated to the purchaser, expenses ought not to have been saddled on the complainants. Purchaser who got the benefit was to bear the expenditure if any. 5. It is not fair for a statutory organisation to raise question of limitation after accommodation the purchaser. When entire amount was received only in 1991 deficiency in service starts from that day since there is no document indicating that opposite party intimated complainants to receive the amount. A probe in the matter if made would reveal how opposite party is caused in its attitude towards the borrowers. We find that there is no limitation. 6. District Forum has not examined whether the expenses demanded to be deducted by opposite party is reasonable. All materials are with opposite party, to give opportunity to parties, we set aside the order of the District Forum and direct it to reconsider the deficiency in service and loss to complainants. If documents are not produced by opposite party in support of its case, adverse inference can-be drawn. Opposite party if advised shall be at liberty to file a fresh detailed statement of its case. 7. In result, appeal is allowed. Appeal allowed.