

(2004) 10 AP CK 0074

In the Andhra Pradesh High Court

Case No : Writ Petition No. 26459 of 1999

Smt. B. Yasodha

APPELLANT

Vs

The Banking Ombudsman (A.P.), A.P. Handicrafts
Development Corporation Ltd. and B.V. Reddy

RESPONDENT

Date of Decision : 14-10-2004

Acts Referred:

Citation : (2005) 2 ALD 4 : (2005) 2 ALT 153

Hon'ble Judges : V.V.S. Rao, J

Bench : Single Bench

Advocate : C.V. Nagarjuna Reddy, for the Appellant; S. Hanumaiah, P. Shiv Kumar and G. Dasaradha Rami Reddy, for the Respondent

Judgement

V.V.S. Rao, J.—The petitioner is a proprietor of Jalajasree Silk Sarees. She is aggrieved by an award dated 7-12-1999 of Banking Ombudsman (Andhra Pradesh), the first respondent herein in complaint No.161/98-99 whereby and whereunder the first respondent directed the third respondent to pay a sum of Rs.1,65,455/- (Rupees one lakh sixty five thousand four hundred and fifty five only) i.e., covered by two Demand Drafts dated 14-9-1998 and 15-10-1998 purchased by the second respondent herein.

2. The fourth respondent herein filed complaint No.161/98-99 before the first respondent against respondents 1, 2 & 3 herein as well as the Regional Manager of Indian Bank, Chittoor praying him to enquire into the matter and direct the third respondent herein to make good the loss sustained by the complainant. It is his case before the first respondent that he is carrying on business in Silk Sarees in the name and style of M/s. Jalajasree Silk Sarees; that he is having an account with Chittoor District Cooperative Central Bank, Madanapalli Branch; that he and the petitioner herein are dealing in Silk Sarees with the second respondent; that after receiving stock from the petitioner as well as fourth respondent, the second respondent issued invoices for consignment of sales accounts for the period from August 1998 to December 1998, and in the said

transaction the second respondent issued two Demand Drafts in favour of the firm of the fourth respondent M/s. Jalajasree Silk Sarees, Madanapalli and sent them through the petitioner herein to deliver the same to the fourth respondent; that the petitioner played fraud and got the Demand Drafts credited to her account by misrepresenting facts to the third respondent; that the fourth respondent raised objection with the third respondent, in vain and therefore, he sought relief as mentioned hereinabove.

3. The first respondent issued notice to the third respondent Bank and based on the same passed award on 7-12-1999 directing as above. Curiously no notice was issued by the first respondent nor the petitioner was shown as opposite party, in spite of the fact that the fourth respondent in his complaint filed on 10-7-1999 has also arrayed the petitioner herein as second respondent.

4. This writ petition is filed assailing the award of the first respondent. Various contentions in relation to alleged arrears committed by the first respondent are raised. However, having regard to the admitted fact that the first respondent did not issue any notice to the petitioner nor the petitioner was given opportunity of being heard, I am not inclined to go into the various questions raised at this stage.

5. A reading of the proviso to Rule 17 (2) of the Banking Ombudsman Scheme, 1995 framed by Reserve Bank of India would show that the first respondent is required to comply with the principles of natural justice and fair play while conducting proceedings. Even if the procedure contemplated in Chapter-IV of the Scheme (Procedure for Redressal of Grievances) is silent, the first respondent while computing rights between two rival claimants as well as the Bank, cannot ignore the principles of natural justice. He is bound to issue notice to opposite parties and mere service of notice and receiving comments from the allegedly erring Bank would not satisfy the principles of natural justice. In a case like this if an order is passed without hearing the opposite party against whom serious allegations like fraud and misrepresentations are made, a person cannot be expected to seek exoneration without giving an opportunity of hearing.