

(1998) 07 NCDRC CK 0066

In the National Consumer Disputes Redressal Commission

SPECIAL OFFICER, NATHAN PRIMARY AGRICULTURAL CO-OP.
BANK

APPELLANT

Vs

S.M.K.ABDHUL MUTHALEEF

RESPONDENT

Date of Decision : 13-07-1998

Acts Referred:

Citation : 1998 3 CPJ 508 : 1999 1 CPC 125 : 1999 2 CPR 48

Hon'ble Judges : E.J.Bellie , Pulavar V.S.Kandasamy , Angel Arulraj J.

Final Decision : Appeal allowed

Judgement

1. WHEN the matter was called there was no representation for both sides. The complainant, as a member of the opposite party Bank of which the two opposite parties are officers, had applied for a loan for improving his land by digging a well and constructing a wall around the well. The opposite parties sanctioned the loan amount, but paid only a part of the loan amount. Then the complainant applied for the balance amount. But they found that the well was not dug and the proposed wall was not constructed as per the plan submitted by the complainant. They required the complainant to file a revised plan and estimate for deepening the well and constructing the wall. But the complainant has not submitted the revised plan and estimate. Therefore the opposite parties could not pay the amount. In these circumstances the complaint has been filed alleging deficiency in service on the part of the opposite parties.

2. IT appears during the course of the hearing before the District Forum the complainant has filed some documents as Ex. A-1 series-revised plan and estimate. The District Forum on consideration of the evidence, held that there was no deficiency in service on the part of the opposite parties. But it further found that the opposite parties shall jointly and severally pay the balance loan amount claimed by the complainant viz., Rs. 10,600/- on condition of sanction of revised estimate and plan. In the result it ordered as follows: "In the result, the petition is allowed in part for the payment of the balance of the loan amount of Rs. 10,600/- by the respondents 1 and 2 jointly and severally to the petitioner on

condition of sanction and approval of Ex. A-I series, the revised estimate and plan. No costs. In other respects, the petition is dismissed".

We find that the order of the District Forum directing the opposite parties to pay the balance amount after having found that they were not deficient in service, is not sustainable. In any event, on the date of complaint, the complainant had not produced the revised plan and estimate. Therefore quite understandably the opposite parties were not able to pay the further amount to the complainant. But having held that there was no deficiency in service on the part of the opposite parties, by mistake the District Forum has ordered the opposite parties" to pay the balance amount to the complainant.

3. IN this view of the matter, we allow the appeal, set aside the order of the District Forum and dismiss the complaint. However there will be no order as to costs. Appeal allowed. _____