

**(2011) 09 NCDRC CK 0016**

**In the National Consumer Disputes Redressal Commission**

State Bank of Mysore

APPELLANT

Vs

G H Patil

RESPONDENT

**Date of Decision :** 30-09-2011

**Acts Referred:**

**Citation :** 2011 4 CPJ 588

**Hon'ble Judges :** Anupam Dasgupta J.

**Final Decision :** Revision Petition dismissed.

## **Judgement**

1. THIS revision petition challenges the order dated 4.11.2008 of the Karnataka State Consumer Disputes Redressal Commission, Bangalore (in short, "the State Commission"). By this order, the State Commission dismissed the petitioner's appeal against the order dated 8.8.2008 of the District Consumer Disputes Redressal Forum, Dharwad (in short, "the District Forum" ) both on the ground of delay (39 days) in filing the appeal as well as on merits.

2. THE facts of the case were that the respondents/complainants had two separate savings bank accounts with the petitioner's Branch at Gokul Road, Hubli. Some fixed deposits were made by complainant 1 in the joint names of both the complainants. One of the fixed deposits was renewed wrongly in the individual name of complainant 1. This came to light when complainant 1 sought premature encashment of some of the deposits, the original receipts of which were lying with the Bank Branch. The Branch did not comply with his repeated requests whereupon the complainant also wrote letters to the Branch Manager as well as to higher officers of the Bank. The replies received from the Branch Manager and the Assistant General Manager were also found to be contradictory. Therefore, alleging deficiency in service, the complainants filed a complaint with the District Forum seeking direction to the Bank to pay the amount of the fixed deposit (Rs. 70,415) withheld by the Bank with interest @ 9.5% p.a. w.e.f. 22.11.2006 (the date of renewal of the said fixed deposit), compensation of Rs. 75,000 towards mental agony and loss and cost of Rs. 10,000. After considering the pleadings, evidence and documents produced on record by the parties, the

District Forum passed a detailed order with the final direction to the respondent Bank to pay to the complainants Rs. 70,415 with interest @ 9.5% p.a. from 10.3.2007 till realisation and cost of Rs. 1,000. It was against this order that the petitioner Bank filed the appeal before the State Commission, with the result already noticed.

3. AFTER dismissal of its appeal, the petitioner approached the High Court of Karnataka against the said order of the State Commission by filing a writ petition. The High Court dismissed the writ petition by its order dated 30.5.2011 by citing the Apex Court's ruling in the case of M/s. Advance Scientific Equipment Ltd. and Anr. v. West Bengal Pharma and Photochemical Dev. and Anr. Thereafter, this revision petition was filed by the Bank on 8.8.2011. In the process, there is a delay of 917 days in filing the revision petition. An application for condonation of delay has also been filed which states, inter alia, as under: "3. The petitioner was pursuing the remedy in the High Court on the basis of the decision of the Hon'ble High Court that the remedy of writ petition is available against the orders of the learned State Commission. 4. That the delay in filing the revision petition is neither intentional nor deliberate but is because of the reasons beyond the control of the petitioner Bank. 5. That immediately after the said order of the Hon'ble Karnataka High Court, the Advocate was identified and the revision petition is prepared and filed. If the limitation is calculated from the date of the orders to the Hon'ble High Court, there is no delay in filing the revision petition. 6. That if the delay in filing the revision petition is not condoned and the revision petition is not admitted and heard the petitioner will suffer irreparable loss and injury. The balance of convenience is also in favour of the petitioner Bank."

4. I am constrained to observe that the revision petition has been filed merely to abuse the process of law. In the aforesaid case, the Apex Court had observed as under: "We are further of the view that the petitioner's venture of filing writ petition under Article 227 of the Constitution was clearly an abuse of the process of the Court and the High Court ought not to have entertained the petition even for a single day because an effective alternative remedy was available to the petitioner under Section 23 of the Act and the orders passed by the State Commission did not suffer from any lack of jurisdiction."

This was reproduced by the High Court in its order dated 30.5.2011.

5. THUS, this ruling of the Apex Court was very much in the knowledge of the petitioner as well as its Counsel and yet the petitioner ventured to file this revision petition and that too after nearly 21/2 months of the High Court's order.

6. THEREFORE, the revision petition deserves to be dismissed summarily, and is accordingly dismissed. The petitioner is also directed to deposit Rs. 10,000 as cost with the Consumer Legal Aid Account of this Commission within four weeks, failing which the Registry shall initiate action under Section 27 of the Consumer Protection Act, 1986. It is hoped that the petitioner (or, similarly placed

petitioners) would, in future, refrain from steps which amount to such abuse of the process of law. Revision Petition dismissed.