(2016) 03 NCDRC CK 0017

In the National Consumer Disputes Redressal Commission

Case No : 3002 of 2015

STATE BANK OF PATIALA & ANR. — APPELLANT

Vs

JOY BASU & 2 ORS. — RESPONDENT

Date of Decision : 07-03-2016

Acts Referred:

Citation : 2016 2 CPR 350

Hon'ble Judges : V.B. Gupta, Prem Narain

Advocate : S. K. Tyagi

Judgement

1. Heard.

2. Brief facts are, that Respondent No.1/Complainant was having a Saving Bank A/C with Petitioners /Opposite Parties No.1& 2 with ATM-cum-Debit Card facility. It is alleged, that respondent no.1 visited ATM of SBI at Charu Chandra Avenue, Kolkata on 28.12.2011 at about 17:30 PM and tried to withdraw money twice but in vain. On that very day, at 6:17: 19 he received two SMS messages at his mobile phone, vide which Rs.40,000/- has been shown illegally debited from his account by leaving the balance of Rs.28,982.42P. Respondent No.1 made a telephonic complaint on Customer Care Number and written complaint on 29.12.2011 to Respondent No.2/Opposite Party No. 3 for reimbursing the amount of Rs.40,000/-,but to no effect. Hence, a consumer complaint was filed before the District Forum, Patiala.

3. Petitioners No.1 and 2 filed their joint written statement and denied all the allegations of respondent no.1. Respondent No.2 has taken similar stand as taken by petitioners.

4. District Forum vide order dated 15.07.2013, dismissed the complaint.

5. Being aggrieved, respondent no. 1 filed appeal before the State Commission, which vide impugned order dated 10.08.2015, accepted the appeal. The State Commission directed the petitioners and respondent no.3, to pay Rs.8,100/- as

penalty for non-settlement of ATM disputes as per RBI guidelines. It also awarded 40,000/- to respondent no.1 on account of non-reimbursement of cash. In addition, Rs.15,000/- was also awarded to the respondent no.1 towards compensation for harassment and litigation cost. 5. Hence, present appeal.

6. The transaction for withdrawal of money took place in the year 2011. Now about 5 years have lapsed. The amount involved in this case is about Rs.63,000/- only.

7. Hon''ble Apex court in Gurgaon Gramin Bank Vs. Khazani and Another, IV (2012) CPJ 5 (SC) observed; " 2. Number of litigations in our country is on the rise, for small and trivial matters, people and sometimes Central and State Governments and their instrumentalities Banks, nationalized or private, come to courts may be due to ego clash or to save the Officers'' skin. Judicial system is over-burdened, naturally causes delay in adjudication of disputes. Mediation centers opened in various parts of our country have, to some extent, eased the burden of the courts but we are still in the tunnel and the light is far away. On more than one occasion, this court has reminded the Central Government, State Governments and other instrumentalities as well as to the various banking institutions to take earnest efforts to resolve the disputes at their end. At times, some give and take attitude should be adopted or both will sink. Unless, serious questions of law of general importance arise for consideration or a question which affects large number of persons or the stakes are very high, Courts jurisdiction cannot be invoked for resolution of small and trivial matters. We are really disturbed by the manner in which those types of matters are being brought to courts even at the level of Supreme Court of India and this case falls in that category ."

The Apex Court further held;

" 10 . The Chief Manager stated in the affidavit that no bill was raised by the counsel for the bank for conducting the matter before the National Consumer Dispute Redressal Commission. We have not been told how much money has been spent by the bank officers for their to and fro journeys to the lawyers'' office, to the District Forum, State Forum, National Commission and, to the Supreme Court. For a paltry amount of 15 ,000/-even according to the affidavit, bank has already spent a total amount of 12 ,950/- leaving aside the time spent and other miscellaneous expenses spent by the officers of the bank for to and fro expenses etc. Further, it may be noted that the District Forum had awarded 3,000/-towards cost of litigation and compensation for the harassment caused to Smt. Khazani. Adding this amount, the cost goes up to 15,950/-. Remember, the buffalo had died 10 years back, but the litigation is not over, fight is still on for 15,000/-.

11. Learned counsel appearing for the bank, Shri Amit Grover, submitted that though the amount involved is not very high but the claim was fake and on inspection by the insurance company, no tag was found on the dead body of the

buffalo and hence the insurer was not bound to make good the loss, consequently the bank had to proceed against Smt. Khazani.

12 . We are of the view that issues raised before us are purely questions of facts examined by the three forums including the National Disputes Redressal Commission and we fail to see what is the important question of law to be decided by the Supreme Court. In our view, these types of litigation should be discouraged and message should also go, otherwise for all trivial and silly matters people will rush to this court.

13 . Gramin Bank like the appellant should stand for the benefit of the gramins who sometimes avail of loan for buying buffaloes, to purchase agricultural implements, manure, seeds and so on. Repayment, to a large extent, depends upon the income which they get out of that. Crop failure, due to drought or natural calamities, disease to cattle or their death may cause difficulties to gramins to repay the amount. Rather than coming to their rescue, banks often drive them to litigation leading them extreme penury. Assuming that the bank is right, but once an authority like District Forum takes a view, the bank should graciously accept it rather than going in for further litigation and even to the level of Supreme Court. Driving poor gramins to various litigative forums should be strongly deprecated because they have also to spend large amounts for conducting litigation. We condemn this type of practice, unless the stake is very high or the matter affects large number of persons or affects a general policy of the Bank which has far reaching consequences.

14. We, in this case, find no error in the decisions taken by all fact finding authorities including the National Disputes Redressal Commission. The appeal is accordingly dismissed with cost of 10 ,000/- to be paid by the bank to the first respondent within a period of one month. Resultantly, the Bank now has to spend altogether 25,950/- for a claim of 15 ,000/-, apart from to and fro travelling expenses of the Bank officials. Let God save the Gramins ."

8. In view of the principle of law laid down in Gurgaon Gramin Bank (Supra), as paltry amount of Rs.63,100/- only is involved and this litigation is going on for about 5 years, therefore we are not inclined to entertain this petition. However, question of law raised in this petition is kept open, to be decided in an appropriate case, where stakes are high and amount involved is substantial.

9. With these observation, present revision petition stand disposed of.

10. Dasti.

