
(2016) 12 NCDRC CK 0033

In the National Consumer Disputes Redressal Commission

Case No : 2271 of 2016

SURESH NARAIN OJHA S/O. SRI KRISHNA KUMAR

APPELLANT

Vs

DEVI PATAN KSHETRIYA GRAMIN BANK & ANR.

RESPONDENT

Date of Decision : 15-12-2016

Acts Referred:

Citation : (2016) 12 NCDRC CK 0033

Hon'ble Judges : Ajit Bharihoke, S.M. Kantikar

Advocate : NIKHIL JAIN

Judgement

1. This revision is directed against the order of the U.P. State Commission dated 15.3.2016 in appeal No.1900/2006 whereby the State Commission allowed the appeal of the opposite parties against the order of the District Forum, Gonda and dismissed the complaint No.183/2003.

2. Briefly put, facts relevant for the disposal of the revision petition are that the petitioner filed a consumer complaint in District Forum, Gonda alleging that on 17.4.2002 he deposited a bank draft No.959350 dated 4.2.2002 for Rs.20,000/- drawn on State Bank of India Manakpur Branch in his saving bank account No.4864 in the opposite party Bank. The Branch Manager at the time of deposit of the bank draft told that since it was an outstation bank draft the payment will come in a month or so. Thereafter, the complainant contacted the Branch Manager on various occasions but the amount of the draft was not credited to his account. Claiming this to be deficiency in service the petitioner raised a consumer dispute by filing a complaint in District Forum, Gonda.

3. The respondents/opposite parties failed to put in appearance despite of service of notice of the consumer complaint, as such opposite parties were proceeded ex-parte.

4. The District Forum on consideration of pleadings and the evidence of the complainant allowed the complaint and directed the opposite party bank to pay to the petitioner/complainant a sum of Rs.20,000/- with 12% interest from the

date of deposit of the draft besides Rs.200/- as litigation cost.

5. Being aggrieved of the ex-parte order of the District Forum, the respondents/ opposite parties filed an appeal in the State Commission. In the memorandum of appeal it was admitted that the bank draft dated 4.2.2002 for Rs.20,000/- issued by the State Bank of India was deposited by the complainant in his saving bank account No.4864. According to the opposite parties the bank draft was sent for collection by registered post which perhaps was lost in transit. Various reminders were sent to the issuing bank and ultimately an indemnity bond was sent alongwith letter dated 6.5.2006. It is further the case of the opposite parties that in the meanwhile the purchaser of the bank draft Shri R.D. Shukla got the subject bank draft cancelled and obtained a duplicate bank draft dated 10.5.2003 in lieu thereof. It was pleaded by the opposite parties that in view of the aforesaid facts the appellant bank is not guilty of deficiency in service.

6. The State Commission after hearing the parties and on perusal of record found merit in the appeal. The appeal was accordingly allowed and the complaint was dismissed.

7. The relevant reasoning for allowing the appeal is reproduced as under: -

" It is clear from the documents available with the annexure that the complainant has deposited the original bank draft No.959350 for Rs.20,000/- on 18.4.2002. The appellant's bank sent the above said bank draft to the State Bank of India Manakpur Branch for the accumulation of the amount, for which he has not received the payment. The appellant has lost the above mentioned bank draft, in place of it, a duplicate bank draft No.02012931456 was issued from State Bank of India, International Air Cargo Complex Branch Mumbai on 1.5.2006 of the State Bank of India, International Air Cargo Complex Branch Mumbai, filed in the annexure by the appellant, but the bank draft deposited again by the complainant on 17.6.2013 in his saving a/c No.4964 for accumulation is bank draft No. 02012931456, as mentioned by him on the deposit receipt and this is the same number of the original bank draft. Instead of the original bank draft, duplicate bank draft was issued. It is noteworthy that whether the bank draft vendee Sh. R.D. Shukla has sent the duplicate bank draft to the complainant Suresh Narain Ojha or not? The appellant bank took ground for his appeal that there is a dispute between the bank draft vendee Sh. R.D. Shukla and the complainant Suresh Narain Ojha. The complainant has not presented any evidence in the annexure which clarifies that he has deposited duplicate bank draft No. 02012931456 dated 10.5.2006 in the appellant's bank and if he has not deposited the original bank draft then, how will the bank have accumulated it and how will it pay the amount to the complainant. The Hon'ble District Forum has not considered this fact and only has passed an order for the payment of the lost original bank draft No.020893950, whereas the vendee of the above said draft Sh. R.D. Shukla has received the duplicate bank draft from the issuing bank. There is no evidence available in the annexure that what he did with that duplicate bank draft No. 02012931456. Under these circumstances, there is no

justification for its payment.

On the basis of the above mentioned investigation, we conclude that the appellant/respondent have not done any negligence in its services. The complainant has tried to take the payment of the lost bank draft by wrongful means from the bank. Therefore, there is strength in the appeal of the appellant. The order passed by the District forum is contrary to the facts. Hence, it is appropriate to accept the appeal accordingly."

8. On reading of the above, it is clear that the impugned order is well reasoned and it does not suffer from any jurisdictional error or material irregularity which may call for interference in exercise of revisional jurisdiction.

9. Revision petition is therefore dismissed with no order as to cost.