**(2004) 05 NCDRC CK 0081**

**In the National Consumer Disputes Redressal Commission**

TIRATHRAM APPELLANT

Vs

Dena Bank RESPONDENT

**Date of Decision :** 31-05-2004

**Acts Referred:**

**Citation :** 2004 2 CPR 670 : 2004 3 CPJ 263

**Hon'ble Judges :** V.K.Agrawal , R.S.Awasthis J.

**Final Decision :** Appeal dismissed

## Judgement

1. THIS appeal, under Section 15 of the Consumer Protection Act, 1986, is directed against the order dated 3.1.2003 in Complaint No. 316/2000 by the District Consumer Disputes Redressal Forum, Durg (hereinafter called the ''District Forum'' for short) dismissing the complaint of the appellant.

2. UNDISPUTABLY the complainant/appellant obtained a loan for purchase of a motor pump for an amount of Rs. 21,000/- to be installed in his agricultural field. He executed certain documents including deed of hypothecation of the standing crops, promissory note etc. The complainant in substance raised a grievance in his complaint that though the appellant paid a much larger amount than was stipulated between the parties, yet the said amount was not adjusted from the loan obtained by him, and more amount is being asked by the respondent. It was averred that the rate of interest and the mode of calculation thereof adopted by the respondent Bank, is not proper and not in accordance with the agreement. The complainant/appellant, therefore, claimed that the excess amount of Rs. 21,245.60 paid by him be directed to be refunded, with interest thereon.

The complaint was resisted by the opposite party respondent herein. According to them the complainant has failed to pay the amount as stipulated. It was averred that part of loan amount was still outstanding against the complainant. It was, therefore, averred that the respondents are not liable to refund any amount to the complainant.

3. THE District Forum observed that complainant has failed to prove that there

was excess payment by him. It was, however, observed that since the dispute between the parties was regarding the rate of interest, and that as the dispute between the parties would require detailed evidence, therefore, the dispute could not be decided by Consumer Forum in exercise of its summary jurisdiction. The learned Counsel for the parties were heard. The learned Counsel for complainant/ appellant has also filed written arguments. As noticed earlier the dispute as raised by the complainant/appellant is regarding mode of calculation and rate of interest charged by the respondent Bank. However, it may be noticed that the statement of account has been produced by the respondent, which shows that there is an outstanding amount of loan of Rs. 13,812/- at the end of year 2000. In so far as rate of interest is concerned, the complainant/appellant has not disputed that he executed documents while obtaining loan including the agreement of the hypothecation of standing crops, a copy of which is filed in the complaint. It would appear, therefore, that the complainant/appellant had, stipulated that interest will be payable at the rate of 2.5% per annum above the Reserve Bank of India''s lending rate with minimum rate of 12.5% per annum or such other rate as may be fixed from time to time by the Bank. This was again reiterated in the term loan agreement. Both the above documents have been signed by the complainant/appellant. In view of the above it is clear that the complainant/appellant agreed to pay interest at the aforesaid rate as mentioned in the said documents. The complainant/appellant has not produced any document or material to controvert the written agreement as above. Thus, the complainant/appellant has failed to substantiate his averment that the interest charged was excessive or in contravention of the loan agreement between the parties.

4. IN the written arguments reliance has been placed on the decision of the National Commission in the State of U.P. v. Corporation Bank and Another, 1997 (1) CPR 118. On going through the said decision, we do not find that the same would render any assistance to the appellant''s case. IN the said case, the question that arose for consideration of National Commission was regarding invoking of the Bank guarantee. It has thus no resemblance with the facts and the questions involved in the present case. IN view of the above, it is clear that the complaint of the appellant cannot succeed. Therefore, the impugned order dismissing the complaint, calls for no interference. We find that this appeal has no substance. It is accordingly dismissed. Appeal dismissed.

 