(1995) 05 NCDRC CK 0008

In the National Consumer Disputes Redressal Commission

VIJAYA BANK APPELLANT

Vs

SUNDER LAL SHAH RESPONDENT

Date of Decision : 03-05-1995

Acts Referred:

Citation : 1995 0 NCDRC 143 : 1995 2 CPC 53 : 1995 2 CPR 194 : 1995 3 CTJ 827

Hon'ble Judges : V.BALAKRISHNA ERADI , B.S.YADAV , R.THAMARAJAKSHI , S.P.BAGLA , S.S.CHADHA J.

Advocate : S.K.SAHIJPAL

Judgement

1. FIRST Appeal Nos. 55, 56 and 57 of 1993 are being disposed of by this common order as the facts are similar in all these three appeals. These appeals have been filed in all the three case by the Vijaya Bank against the Order of Maharashtra State Commission dated 2.11.1992. Shri Sunder Lal C. Shah and Shri Dilip S. Shah, the complainants in the case before the State Commission had alleged that the Vijaya Bank-appellant allowed a withdrawal from the Current A/c Nos. 217 and 220 in the name of M/s. S.C. Shah & Co. and M/s. Maharashtra Tea Depot, respondents herein, by Shri Babu Lal Shah, which was without proper authority. It was also alleged that this withdrawal by Shri Babu Lal Shah was allowed in collusion with the officers of the Bank and amounted to negligence in service as the withdrawal was contrary to the instructions and advice given by the complainants. The complainants claimed back Rs. 1.55 lakhs, the amount so withdrawn, together with interest. They also claimed Rs. 50,000/- for the loss of business and Rs. 25,000/- for mental torture. The Maharashtra State Commission came to the conclusion that Shri Sunder Lal Shah alone was entitled to operate Current A/c No. 220 and therefore the amount of Rs. 1.55 lakhs withdrawn by Shri Babu Lal Shah, was contrary to the instructions given to the Bank. They, therefore, awarded the relief in the nature of a direction to the Vijaya Bank, Sangli Branch to pay to the complainants Rs. 1.55 lakhs together with interest at the rate of 18% per annum from 5.3.1991 till the date of payment and also Rs. 5,000/- as compensation for the loss and expenses in filing

the complaint.

2. THE respondents were not present either in person or through authorised representatives. It has been argued before us by the counsel for the Vijaya Bank that the accounts of Shri Sunder Lal Shah, Babu Lal Shah and Dilip S. Shah were in the nature of family accounts, because all of them are closely related and having a number of firms registered. This withdrawal of Rs. 1.55 lakhs by Shri Babu Lal Shah was allowed fully in accordance with the instructions as contained in the Account Opening Form. According to these instructions all of them were entitled to transact business with the Bank severally or jointly, and that each of the four persons, who signed the partners liability letter dated 26.10.1987 shall be individually liable to the Bank to discharge all the obligations. The Hindi version of this liability form is duly filled in and has been signed by all the four persons including Shri Babu Lal Shah and Smt. Sushila S. Shah. Shri Babu Lal Shah vide his letter dated 5.3.1991 has also confirmed that he withdrew Rs. 1.55 lakhs from account No. 220 in his capacity as a partner. Similarly, Smt. Sushila Shah also informed that she withdrew Rs. 5.35 lakhs from Account No. 216 in her capacity as a partner.

3. THE partners liability letter clearly indicates that all transactions entered into with the Bank, or through the Bank with any other bank, from time to time, by all or any of the partners, whether under the signature of the firm or subscribed by the individual signature of the partners, whether severally or jointly, may be conclusively recorded by the bank as entered into for, and on behalf of them, jointly and severally and also on behalf of the firm. In the face of this clear declaration for their liability in regard to these accounts, we are unable to uphold the order of the State Commission, Maharashtra and therefore, set it aside. We accept the appeal preferred by the Vijaya Bank against these orders. No costs.