(1993) 09 NCDRC CK 0004

In the National Consumer Disputes Redressal Commission

VISHNU AGENCIES APPELLANT

Vs

INDIAN OVERSEAS BANK RESPONDENT

Date of Decision : 27-09-1993

Acts Referred:

Citation : 1993 0 NCDRC 84 : 1993 3 CPJ 362 : 1993 3 CPR 388 : 1994 2 CPC 611 : 1994 2 CTJ 126 : 1995 1 CLT 239

Hon'ble Judges : V.BALAKRISHNA ERADI , A.S.VIJAYAKAR , B.S.YADAV , Y.KRISHAN J.

Advocate : S.S.SHARMA

Judgement

1. THE Complainant is a Pharmaceutical trader, representing nearly 25 Pharmaceutical manufacturers, who are purchasing the products of the manufacturers and stocking them in godowns and further distributing them to the various dealers on credit for a period not less than 45 days.

2. ACCORDING to the Complainant, at its request, the Opposite Party, Indian Overseas Bank, agreed to sanction overdraft of Rupees one crore against collateral security by deposit of title deeds of the properties worth more than Rs. 2 crores and fixed deposits being made with the Opposite Party Bank. According to the Complainant he arranged for fixed deposits being made by various parties with the said Bank to the extent of Rs. 5 crores and furnished collateral security of properties worth more than Rs. 2 crores. However, the Opposite Party Bank allowed the Complainant an overdraft of Rs. 43 lacs only of which Rs. 18 lacs was appropriated by the Opposite Party Bank for payment of commission to various agents for arranging fixed deposits to the tune of Rs. 5 crores. In the result, he was, in effect, given overdraft to the extent of Rs. 25 lacs only against his requirement of Rupees one crore which had been again agreed to be granted by the Opposite Party Bank. In the result, the Complainant suffered severe shortage of funds in conducting his business. The Opposite Party Bank had committed deficiency in service by not allowing credit agreed to, viz. Rupees one crore. He has further alleged that the Opposite Party caused damage to his reputation and

business by making a criminal complaint against him with the CBI and this was subsequently found to be baseless. The Complainant had therefore, claimed a compensation of Rs. 57 lacs in not allowing the Complainant to utilise the full amount sanctioned to him and thus causing loss of business and earnings, Rs. 3 crores for causing damage to the image and reputation of the Complainant by making a false criminal complaint against him with the CBI etc. and Rs. 50,000 for legal expenses incurred by him for valuation reports etc. for the title deeds deposited by him. The Opposite Party Bank has explained that only Rs. 6 lakhs was sanctioned initially as overdraft against the security of stocks and mortgage of immovable properties in accordance with the request of the Complainant made in February, 1988. It has further stated that the Complainant in collusion with the then Manager of the Opposite Party Bank withdrew a sum of a Rs. 41.78 lacs without following the formalities required for the disbursal of the amount. This led to a complaint being lodged with the CBI but eventually this investigation was not proceeded for reasons which have not been explained adequately. According to the Bank the amount drawn by the Complainant was misused for his personal requirements and not for procurement of pharmaceuticals and their storage.

3. IT is not necessary for us to go into the matter further. The fact that the Opposite Party Bank filed a criminal complaint with CBI against the Complainant but eventually it was not proceeded with by the CBI is not a matter of service to be rendered by the Opposite Party Bank attracting the mischief of the Consumer Protection Act.

4. AS regards the amount to be sanctioned as overdraft facilities, as we have stated in a number of cases earlier, the Banks have considerable discretion in sanctioning and thereafter in releasing the amounts there against subsequently depending upon the actual requirement of the party concerned and its proper utilisation. The Consumer Forums cannot sit in judgment on the decisions of the Banks as to how much amount has to be sanctioned. They have only to follow the guidelines, to repeat the guidelines, laid down by the Reserve Bank of India. From the facts of the case there is also no doubt that the amount claimed by the Complainant is fantastically high perhaps only because there is no court fee payable for proceedings before the Consumer Forums. In short, he has valued the claim for damages recklessly and irresponsibly and thereby sought to bypass the jurisdiction of the lower Forums. 7. The complaint is dismissed as totally devoid of merit. The Complainant shall pay a sum of Rs. 10,000 as costs to the Opposite Party Bank.