

M/S. Tvs Finance and Services Ltd., Formerly Known as M/S. Harita Finance Ltd., Chennai Vs. Syed Khasim

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Court : Tamil Nadu State Consumer Disputes Redressal Commission SCDRC Chennai

Decided On : Aug-21-2008

Judge : Hon'Ble Thiru Justice N. Kannadasan, President Thiru Pon. Gunasekaran B.a.,B.L., Member - I

Appeal No. : A.P.NO.357 of 2006 (Against O.P.No.62 of 2004 on the file of the DCDRF, Chennai (South))

Appellant : M/S. Tvs Finance and Services Ltd., Formerly Known as M/S. Harita Finance Ltd., Chennai

Respondent : Syed Khasim

Judgement :

N. KANNADASAN J. (Open Court)

1. The above appeal is filed against the order of the District Forum dt.19.10.2005, wherein an amount of Rs.20000/- was awarded as compensation for mental agony and a sum of Rs.1000/- towards cost to the Respondent / complainant herein.

2. The complaint is filed on the ground that even though complainant has paid the entire amount of installments towards the loan secured by him from the Appellant / opposite party, the opposite party instead of returning the RC book and other

documents, have taken a stand that the said documents were sent by post. But however they were lost during transit and thereby the complainant is put to hardship and mental agony. The District Forum has accepted the case of the complainant and allowed the complaint for the reasons as set out therein, against which the present appeal is filed.

3. The Learned counsel for Appellant would submit that even as per the statement of Accounts, marked by way of Ex.A14, it is clear that one last installment of Rs.1299/- is due and payable. It is only after the payment was received by the appellant, the RC book and other documents were sent to the complainant by way of registered post. However, according to the Learned counsel for appellant, the postal authorities have not served the RC book and other documents to the complainant and as such the appellant could not found fault, accordingly it is contended that there is no deficiency in service on the part of the appellant and order of the District Forum is liable to be set aside.

4. Per contra, the Learned counsel for Respondent submitted that even though the complainant has furnished all the cheques, a particular cheque bearing No.177496, was not encashed by the appellant. According to the respondent, the appellant should have come forward with a statement at the earliest point of time that they have lost the said cheque leaf and in which event the complainant would have replaced the same by another cheque leaf. On the contrary, even though it was admitted by the appellant through their communication dt.6.2.2002, Ex.A17, that they have not encashed the cheque, nothing prevented them from requesting the complainant to make available one more cheque leaf. Under the said circumstances, the learned counsel for the respondent submits that no interference is called for with the order of the District Forum.

5. We have considered the rival claims of the respective parties and perused the relevant materials. It is not known as to how the opposite party has lost the cheque leaves for the loan obtained for the purchase of the vehicle. In course of the business transaction, if the appellant has lost a particular cheque leaf, which fact was not informed to the complainant, he cannot be held responsible for the same. It cannot be said that there is a delay on his part in making the payments. That

apart, no document is filed before the District Forum to indicate that the RC Book was sent by registered post. Even though Learned Counsel for Appellant submits that the files are misplaced due to the amalgamation of two companies, no other evidence is available on record to substantiate the claim of the appellant that the RC book was sent by post and the same was lost. Under the above said circumstances, we are not inclined to interfere with the order of the District Forum. However, we propose to modify the order of the District Forum with regard to the directions given to the appellant to handover the duplicate RC book, considering the submissions made by the Learned Counsel for Appellant to the effect that it would create lot of problems for the appellant to obtain duplicate RC book, for which the cooperation of the complainant is required.

6. In the result, the appeal is disposed by modifying the order of the District Forum as follows:

- a. There will be a direction to the appellant to furnish necessary certificate / documents to the complainant within a period of six weeks from today indicating that the loan availed by the complainant / respondent is fully discharged and they have no objection for obtaining the duplicate RC Book.
- b. As regards the direction given for the payment of compensation of Rs.20000/- and Rs.1000/- as cost is concerned no interference is called for and the said direction has to be complied with by the appellant / opposite party.

There will be no order as to cost in the appeal.

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