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Court : Himachal Pradesh State Consumer Disputes Redressal Commission SCDRC Shimla

Decided On : Mar-26-2014

Judge : (Retd.) Surjit Singh, President &Amp;amp; the Honourable Mrs. Prem Chauhan, Member

Appeal No. : First Appeal No. 365 of 2013

Appellant : Shakuntla Devi

Respondent : icici Bank, the Mall Shimla, H.P., Through Manager

Judgement :

Justice (Retd.) Surjit Singh, President (Oral)

1. Appellant is aggrieved by the order dated 05.10.2013, of learned District Consumer Disputes Redressal Forum, Shimla, whereby her complaint, under Section 12 of the Consumer Protection Act, 1986, which she filed against the respondent, has been dismissed.

2. Admitted facts are that the respondent is a bank, rendering banking services to the public. Appellant/complainant approached the respondent/ bank to seek a loan. Her request was acceded to and she was granted a loan of Rs.1.00 lac, in the month of July, 2007. Loan was to be repaid, together with interest, in thirty-six monthly instalments. According to the appellant/complainant, fixed rate of instalment was Rs.3,800/- and that she had been paying instalments regularly.

She alleged that in the month of August, 2008, when she visited the bank and enquired as to what amount of money was still payable by her, she was told that a sum of Rs.1,21,775/- was to be paid by her.

3. Appellant then served a legal notice upon the respondent/bank that her account had not been maintained correctly and the amount shown outstanding, in her account, was exaggerated. She got no response to the legal notice and, therefore, filed a consumer complaint, under Section 12 of the Consumer Protection Act, 1986, seeking a direction to the bank not to charge more amount of money than due, as per agreement, viz. the repayment of the loan amount in monthly instalments of Rs.3,800/- for a period of thirty-six months.

4. Complaint was contested by the respondent and it was pleaded that loan had been taken by the appellant on 07.07.2007, which was to be repaid in thirty-six monthly instalments of Rs.4,871/- each and that the agreed rate of interest was 41% and not 18%, as pleaded in the complaint.

5. Learned District Forum, has dismissed the complaint with the observation that the issues raised involve complicated questions of facts and settlement of accounts, for which the right course for the appellant is to seek some other remedy as the proceedings before the Consumer Fora are of summary nature. Appellant is aggrieved by this order and has, therefore, filed the present appeal.

6. We have heard learned counsel for the parties and gone through the record.

7. Respondent placed on record a document executed between the parties at the time of advancement of loan. The same is available as Annexure R-2. As per this document, appellant was to repay the loan of Rs.1.00 lac, with interest at the rate of 41% per annum, in thirty-six monthly instalments of Rs.5,618/- each. The rate of interest on the face of it, appears to be oppressive.

8. Learned counsel representing the respondent submits that this was a personal loan sanctioned in favour of the appellant, without taking any security and in respect of unsecured loan, bank can charge interest at a higher rate.

9. Honble National Consumer Disputes Redressal Commission in œAWAZ? and Ors. versus Reserve Bank of India and Ors. III (2008) CPJ 98 (NC) has held that charging of an exorbitant rate of interest, ranging from 36% to 49% per annum, amounts to exploitation of borrowers and debtors and is usurious and amounts to unfair trade practice, within the meaning of Section 2 (1) (r) of Consumer Protection Act, 1986.

10. In the case before Honble National Consumer Disputes Redressal Commission, issue raised was, whether a bank can charge interest at a rate ranging from 36% to 49%. Honble National Consumer Disputes Redressal Commission held that charging of interest at a rate higher than 30% was usurious and amounted to unfair trade practice. It was also held that where interest at such a higher rate is charged, even though as per agreement executed between the parties, the Consumer Fora will have the authority to adjudicate upon the question, whether the interest charged by the bank amounts to unfair trade practice, as defined in Consumer Protection Act and to issue consequential directions, based on such finding.

11. In view of the above referred to precedent of Honble National Consumer Disputes Redressal Commission, there should be no hitch in holding that the respondent has indulged in unfair trade practice in its dealing with the appellant, by charging interest at an exorbitant rate of 41% per annum. Consequently, we accept the appeal, set aside the impugned order and direct the respondent not to charge interest at a rate, higher than 30% per annum, from the appellant and also to pay her a sum of Rs.5,000/-, on account of litigation expenses, by crediting the same in her loan account.

12. A copy of this order be sent to each of the parties, free of cost, as per Rules.

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