

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

FIRST APPEAL NO. 690 OF 2018

(Against the Order dated 06/12/2017 in Complaint No. 358/2015 of the State Commission
Maharashtra)

1. DEPARTMENT OF POST & 3 ORS.

THROUGH SHRI RAVI SHANKAR PRASAD
COMMUNICATION MINISTER VOT OF INDA 105,
1FLOOR SANCHAR BHAWAN
NEW DELHI

2. CHIEF POST MASTER GENERAL

GPO BUILDING

MUMBAI

3. SENIOR SUPERINTENDENT OF POST OFFICES

MUMBAI WEST DIVISION DADAR

MUMABI

4. SENIOR POST MASTER

MAHIM POST OFFICE MAHIM

MUMBAI

.....Appellant(s)

Versus

1. COLONEL NARENDRA NATH SURI (RETD.)

901, RIZVI HEIGHTS MAHIM

MUMBAI 400 016

.....Respondent(s)

BEFORE:

HON'BLE MRS. JUSTICE DEEPA SHARMA, PRESIDING MEMBER

FOR THE APPELLANT : MR.SANJIB KUMAR MOHANTY, ADVOCATE

MR.SUBESH KUMAR SAHOO, ADVOCATE

FOR THE RESPONDENT : NONE

Dated : 05 June 2023

ORDER

JUSTICE DEEPA SHARMA, PRESIDING MEMBER

1. The present Appeal has been filed against the order dated 06.12.2017 of the State Commission whereby the Consumer Complaint No. 358 of 2015 filed by the respondent (hereinafter referred to as 'Complainant') was allowed and all the Appellants were held jointly and severally liable to refund sum of Rs.24,91,382/- and amount of Rs.8830/- to the complainant. Rs.1,00,000/- was awarded towards mental and physical harassment and Rs.10,000/- towards cost of litigation.

2. The brief facts of the case are that the complainant along with his son Rahul Suri had opened recurring deposit account in the post office. In November, 2014, he was informed that there were some irregularities in his account. He had contacted the concerned officer in the post office and he was informed that his account had been properly maintained. On inquiry, he learnt that a fake Saving Bank Account was opened in the post office bearing no. 4603590 in his name and in the name of his wife Kusum Suri and son Rahul Suri. 50% of the amount lying in the recurring deposit account was diverted to the fake account and was withdrawn in cash during the period 22nd August to 26th August 2013. Complainant had alleged that saving account had been opened on the basis of fake documents and the staff of the post office was in collusion. It is submitted that at the time of withdrawal of amount from Saving Bank account, it was essential to produce the passbook. However, the post office allowed the amount to be withdrawn in cash without pass book. He had also alleged that from July 2014, his small saving agent had not invested the monthly instalments and so he was required to pay an amount of Rs.8830/- towards penalty. He had alleged that his money had been misappropriated by the post office and he filed the complaint for refund of the misappropriated money and penalty amount charged illegally.

3. The complaint had been contested by the Appellants. It is submitted that the misappropriation of the amount from the recurring deposit account had been reported in Mahim Police Station. The complaint of the complainant against agent of small savings namely Umesh Doshi had also been entertained. A report has been received that Umesh Doshi had kept the passbooks and cheque book of the complainant. It is not disputed that half of the deposited amount of the recurring deposit account had been withdrawn and new saving bank account number 4603590 was opened on the introduction given by the agent Umesh Doshi. The amount was credited in the saving bank account on the basis of documents signed by the complainant. An application for withdrawal along with passbook was received by the Counter Assistant. It is denied that saving bank account no. 4603590 was a fake account and opened on the basis of fake documents. It was further submitted that whenever any money is required to be withdrawn from the recurring deposit account which is more than Rs.20,000/-, the same had to be paid by cheque or by crediting in saving bank account of that person in the post office. It is submitted that messenger of the complainant Sh. P.V.Parekh had withdrawn the amount from the saving bank account as per the authority given to Mr. Parekh by the complainant. The signatures of the complainant were verified by the concerned officer of the post office at the time of opening of the saving bank account. All these documents are in custody of the police and letter dated 24.06.2015 had been given to the police seeking custody of those documents for sending the same to the handwriting expert. It is submitted that as per the instructions of the post office, the customer is required to keep the pass book in his custody but the complainant had handed over the pass book to Mr. Umesh Doshi and permitted him to withdraw the amount. It is submitted that although the complainant had made the allegations against Mr. Umesh Doshi but Umesh Doshi had not been made a party in the present complaint and post office had already written a letter to the Director of Small Savings for cancelling agency of Umesh Doshi and accordingly his agency has been cancelled. It is submitted that matter is under police investigation. It is submitted that complaint was liable to be dismissed.

4. The State Commission had duly heard the counsel for the parties and perused the record and allowed the complaint.
5. This order is impugned before me. It is argued that findings of the State Commission are erroneous and are illegal and perverse. It is submitted that Post Office has not committed any irregularity or had been careless or negligent in handling the accounts of the complainant. It is submitted that it was the complainant who had reposed blind faith in the agent and allowed him to keep his pass book. It is argued that all the rules and procedures are duly followed by the bank in maintaining the accounts.
6. In the written arguments the complainant has submitted that order of the State Commission is based on the cogent evidences on record and it does not suffer with any illegality or infirmity and that the present appeal is liable to be dismissed.
7. I have heard the counsel for the petitioner and perused the record.
8. The admitted facts are that the complainant alongwith his son were maintaining recurring deposit account with the Appellant in which they had been depositing the money. His contention is that 50% of the deposited amount had been transferred to saving bank account which he had never opened and which had been opened by the agent of the post office Mr. Umesh Doshi on the basis of forged documents and in connivance with the officials of the post office. 50% of the money from the recurring deposits was diverted to this newly opened saving bank account from where it had been withdrawn. The contention of the appellant has been that saving bank account had been opened as per the documents which was found genuine and the money was transferred from the recurring deposit to the saving bank account on the request of the complainant from wherein the same was withdrawn by Mr. Parekh who was acting as messenger of the complainant. The fact that deposited amount of Rs.24,91,382/- had been withdrawn from the account of the complainant by Mr. Parekh and not by complainant is admitted by the Appellants. It is alleged by the appellant that Mr. Parekh was duly authorized by the complainant. However, there is no evidence record to prove this fact. A police complaint had also been filed by the complainant regarding the fraud being played upon him by the post office in connivance with Umesh Doshi, the agent of the post office. Appellant has, however, denied that Umesh Doshi was not their agent but he was an independent person who was working as agent for the complainant. It is not in dispute that he was authorized agent of NSS working for the post office. Therefore, to say that he was not a post office agent, would be incorrect. It is settled proposition of law that principal is liable for the act of his agent, as held by the Supreme Court in the matter of **Pradeep Kumar and Another Vs. Post Master General and Others (2022) 6 SCC 351, Civil Appeal No. 8775-8776 of 2016**. NSS had appointed authorized agent for the post office only. Therefore, the State Commission has rightly reached to the conclusion that Appellants are jointly and severally liable for refunding the misappropriated amount of Rs.24,91,382/-. Since the agent of the post office had not deposited the monthly instalments within time and for that purpose complainant needed to pay Rs.8830/- as a penalty, complainant is also entitled for refund of the same. The findings of the State Commission are based on cogent evidences and there is nothing on record to show that findings are perverse or illegal.

9. I found no illegality in the impugned order. The Appeal has no merits. Same is dismissed and impugned order is, hereby, confirmed.

.....J
DEEPA SHARMA
PRESIDING MEMBER