

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI

REVISION PETITION NO. 2028 OF 2016

(Against the Order dated 20/01/2016 in Appeal No. 119/2014 of the State Commission Gujarat)

1. MANAGER, BANK OF BARODA & ANR.
SH. SOLANKI CHATURBHAI MOHANLAL,
MARKET YARD BRANCH, VISNAGAR, TAL.
VISNAGAR,
DISTT. MEHSANA
GUJARAT
2. AUTHORIZED OFFICER,
BANK OF BARODA(HEAD OFFICE) AT MANDVI,
TAL. &
DISTRICT-BARODA,
GUJARAT

.....Petitioner(s)

Versus

1. CHITRODIYA BABUJI DIVANJI
R/O. B/41, SHIRDINAGAR SOCIETY, DHAROI
COLONY ROAD, VISNAGAR, TAL. VISNAGAR,
DISTT. MEHSANA
GUJARAT

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.....Respondent(s)

BEFORE:

HON'BLE MRS. JUSTICE DEEPA SHARMA,PRESIDING MEMBER
HON'BLE MR. C. VISWANATH,MEMBER

For the Petitioner :

For the Respondent :

Dated : 19 Jul 2019

ORDER

APPEARED AT THE TIME OF ARGUMENTS

For the Petitioner

: Mr. Bhaskar Sharma, Advocate

For the Respondent

: Mr. A.O. Chudgar, Advocate

ORDER

C.VISWANATH

1. The present Revision Petition is filed by the Petitioner under Section 21(b) of the Consumer Protection Act, 1986 against Order passed by the State Consumer Disputes Redressal Commission, Gujarat (hereinafter referred to as the “State Commission”) in Appeal No. 119/2014 dated 20.01.2016.

2. In the Complaint Case, the Respondent/Complainant stated that in the year 2005, he had opened Savings Bank Account No. 12289 with Petitioner Bank jointly with his son Kalpesh Babuji Chitrodiya. On 11.09.2010, the Respondent deposited cheque no. 97893 amounting Rs.3,60,000/- in his saving account with the Petitioners, which was given to him by Sh. Thakkar Mukundbhai Manharlal of Vadnagar to clear his dues towards the Respondent. The said cheque deposited by the Respondent was returned dishonoured to the Petitioners. The Petitioners sent the aforesaid dishonoured cheque and cheque return memo to the address of the Respondent as mentioned by him in his Bank Account through Registered Post A.D. on 17.09.2010, which was returned to the Bank on 24.09.2010 as unserved.

3. On 22.09.2010, after the Bank sent the dishonoured cheque and return memo through Regd. A.D. Post, the Respondent moved an application to update his current address in Bank Records which was different from the address mentioned by him while opening of the account.

4. On 30.11.2010, the Respondent issued a legal notice asking about the fate of deposited cheque and credit of cheque amount in his account. Through aforesaid notice, the Respondent had also asked for dishonoured cheque and cheque return memo in case the cheque was dishonoured.

5. On 08.12.2010, the Petitioners sent a reply to the legal notice asking the Respondent to visit the Bank along with deposit receipt given by the Bank at the time when the cheque was deposited so that his concerns could be addressed.

6. On 07.01.2011, the Respondent sent another legal notice to the Petitioners stating that Petitioners had neither deposited cheque amount in his account, nor given him dishonoured cheque along with cheque return memo in case the cheque was dishonoured. It was also alleged in the notice that when the Respondent visited the bank along with the deposit receipt, the Manager Sh. Chaturbhai Mohanlal Solanki tried to snatch the slip from him and told him that the drawer of the cheque was his relative and that the said cheque was lost and dared him to do whatever he can. On 07.02.2011, the Petitioners sent a reply to the legal notice dated 07.01.2011 denying all allegations levelled in the said notice and stating that no one had visited bank along with the counter slip as alleged in the notice. Hence, the Complaint was filed.

7. The Complaint was contested by the Petitioners wherein it was reiterated that the Respondent and his son were holders of joint account in the Bank of the Petitioners and operating the transactions and presently also they are doing the transactions. They were deducting the Commission as prescribed in accordance with the rules of the Bank against the deposit of cheques. The account of the Respondent was opened with the Bank of the Petitioners and the address which is displayed therein was of Sultanpura. The cheque presented by the Respondent on 17.09.2010 was returned in the Bank. The said cheque and returned memo were sent to the Respondent's address at Sultanpura but the Respondent was not found at the aforesaid address. It is clear the Respondent had not accepted the cheque and returned memo which was sent at the Sultanpura address of the Respondent. Thus, Complaint was liable to be dismissed as there was no defect in the service provided by the Petitioners.

8. District Forum, vide order dated 10.10.2013, partly allowed the Complaint and directed Petitioners to make payment of Rs.15,000/- with 9% interest. The Petitioner was ordered to make payment within 30 days.

9. The State Commission, vide order dated 20.01.2016 allowed the appeal of the Respondent and set-aside the order of the District Forum. The Petitioner was directed to pay Rs.3,60,000/- to the Respondent.

10. Being aggrieved by the order passed by the State Commission, the Petitioner filed the present Revision Petition before this Commission.

11. Heard the Learned Counsels for the Petitioner as well as Respondents. They reiterated their respective contentions as stated above. We have also carefully gone through the evidence placed on record.

12. It is an admitted fact that the Respondent/Complainant had a savings Bank Account No. 12289 which was subsequently renumbered as 05770100002554 at Market Yard Branch, Bank of Baroda opened in the year 2005. The Respondent deposited cheque No. 97893, dated 11.09.2010 amounting to Rs.3,60,000/- in his savings Bank Account with the Petitioner Bank. The cheque deposited by the Respondent was returned dishonoured to the Petitioner Bank. The Petitioner sent the dishonoured cheque and cheque return memo to the address of the Respondent as mentioned in his Bank Account on 17.09.2010 which was returned to the Bank on 24.09.2010 as unserved.

13. The Respondent constantly pursued his case with the Petitioner for return of dishonoured cheque and cheque return memo. Unfortunately, the cheque was lost by the Bank. The Respondent did not receive the bounced cheque nor did he get the cheque amount of Rs.3,60,000/-. The Petitioner failed to return the cheque to the Respondent and the Respondent was deprived of his legal right to file a case under section 138 of Negotiable Instrument Act against the account holder. Thus, the Respondent had to suffer a loss of Rs.3,60,000/-. When the cheque in question had been lost by the Petitioner Bank, it is the responsibility of the Bank to compensate the loss.

14. In view of the above discussion we found no illegality or infirmity in the impugned order. No miscarriage of justice is also shown to have been done in the case. Order is also not perverse. The findings are based on sound principles of justice. We see no illegality, infirmity or jurisdictional error in the impugned order and the same is upheld. The Revision Petition has no merit and the same is dismissed.

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DEEPA SHARMA
PRESIDING MEMBER
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C. VISWANATH
MEMBER