

CHAPTER XII
CONSUMER PROTECTION ACT

Case No. 87

1991(II) An.W.R. 69

BEFORE THE STATE COMMISSION UNDER C.P. ACT. 1987

The Hon'ble Mr. Justice Lakshmana Rao
(Chairman) President State Commission

And

Mr. Pothuri Venkateswara Rao: Member

And

Dr. Smt. Vanaja Iyengar: Member

C.D. Case No.173 of 1991, dated 20-7-1991.

M.V. KRISHNA REDDY

Complainant

Vs.

THE ANDHRA BANK, GUDUR, REP. BY ITS MANAGER,
GUDUR, NELLORE DISTRICT,

Respondent

Complainant borrows from bank - power to seize under hypothecation agreement - default by complainant - bank effects seizure - complainant approaches Consumer Forum - relationship is one of creditor and debtor - complainant is not a consumer.

Held: The facts reveal that the relationship between the complainant and the opposite party is that of debtor and creditor. Admittedly, the complainant did not pay the half yearly instalment which was due in the second half of the year 1986. Therefore, the tractor and the trailer were seized by the opposite party-Bank. The opposite party-Bank seized the tractor and the trailer, as the complainant committed default in payment in the half yearly instalment in accordance with the terms and conditions subject to which the loan was advanced. Therefore, question of deficiency in the service, if any, rendered by the Bank does not arise. The complaint is not maintainable.

(Case under Section 17 (a) (i) of the Consumers Protection Act 1986 praying the State Commission to (a) declare that due to the deficiency and imperfect service of

the opposite party the complainant suffered a damage of Rs.1,50,000/- as he could not raise crops during December, 1986 and that the Bank is liable to pay the said sum to the complainant (b) and also declare that the bank is liable to pay a sum of Rs.35,000/- being the balance of the value of the tractor and trailer after adjusting the amount due under loan A/c. No.3/83 of Andhra Bank, Gudur, Nellore District.)

Mr. M.P. Chandra Mouli, Advocate for the Complainant.

JUDGEMENT

(Judgement of the State Commission delivered by A. Lakshmana Rao J.)

The complainant had obtained a term loan of Rs.75,000/- on 28-6-1983 from the Andhra Bank, the opposite party herein, payable in 14 half yearly instalments, for the purpose of purchasing a tractor. With the loan amount he purchased International Tractor of 35 HP for Rs.84,122-57. He also purchased a two-wheeler Trailer costing Rs.13,770/- and a cultivator for Rs.2,600/-. The complainant had hypothecated the tractor and the trailer to the opposite party Bank. It is stated that he had also given security of immovable property of Acs. 10-52 cents of land by creating equitable mortgage by deposit of title deeds, in favour of the opposite party-Bank.

2. It is stated in the complaint that upto September, 1986 the complainant had paid half yearly instalments regularly. In the month of June 1986 the complainant addressed a letter to the opposite-party Bank stating that due to unfavourable climatic conditions the crops failed. Therefore, he requested the Bank to grant him time for payment of the instalment till March, 1987. It is the case of the complainant that if the Bank was not willing to extend the time he requested that he may be permitted to sell the tractor and pay the amount due to the Bank. According to the complainant, the Bank did not send any reply to that letter. It is stated that the complainant got the tractor and the trailer repaired by spending Rs. 21,000/- after he had addressed the letter in June 1986 to the Bank, understanding the silence on the part of the Bank and not giving a reply to his letter as, conceding his request.

3. While so, the opposite party-Bank seized the tractor and the trailer on 28-11-1986 for default in paying the half yearly instalment. The grievance of the complainant is that though the tractor and the trailer were seized on 28-11-86 and kept in the custody of the opposite party-Bank they have not been so far sold and as a result of that, the complainant has suffered loss and damage. His further grievance is that the Bank had waited till the complainant had completed the repairs to the

tractor by spending a huge amount of Rs. 21,000/- and he could not raise the crop in Acs. 50-00 of land due to the seizure of the tractor and the trailer. Therefore, he filed this complaint pleading that he had suffered damage of Rs. 1,50,000/- due to the deficiency in the service rendered by the opposite party-Bank. He also claimed Rs. 35,000/- being the balance of the value of the tractor and the trailer.

4. The facts referred to above reveal that the relationship between the complainant and the opposite party is that of debtor and creditor. Admittedly, the complainant did not pay the half yearly instalment which was due in the second half of the year 1986. Therefore, the tractor and the trailer were seized by the opposite party-Bank. The opposite party-Bank seized the tractor and the trailer, as the complainant committed default in payment of the half yearly instalment in accordance with the terms and conditions subject to which the loan was advanced. Therefore, question of deficiency in the service, if any, rendered by the Bank does not arise.

5. For the reasons stated above, the complaint is not maintainable and it is accordingly dismissed.