06.06.2022
Item No.19
Court No.18
AJ.

C.O. 1160 of 2011

I.A. No. CAN 2 of 2013 (Old CAN 8423 of 2013)
CAN 3 of 2021

Pranab Kumar Mandal
-Vs-
The State of West Bengal & Anr.

Mr. Pranab Kumar Mandal.
……petitioner (in person).

None appears on behalf of the opposite party.

In re: <u>CAN 2 of 2013 (Old CAN 8423 of 2013)</u>

The revisional application was dismissed for default on July 31, 2013. This is an application for recalling of the said order.

The petitioner appearing in person submits that since he has already filed another application (CAN 3 of 2021) for recalling of the said order dated July 31, 2013, he does not want to press the instant application.

Therefore, CAN 2 of 2013 (Old CAN 8423 of 2013) is dismissed as not pressed without any order as to costs.

<u>In Re: CAN 3 of 2021</u>

Perused the application, it appears from the averments of the instant application that the petitioner was prevented by sufficient cause from appearing before the Court when the revisional application was called on for hearing.

The order dated July 31, 2013, whereby the revisional application was dismissed for default is recalled. C.O. 1160 of 2011 is restored to its original file and number.

CAN 3 of 2021 is, thus, disposed of without any order as to costs.

<u>In Re: C.O. 1160 of 2011</u>

The revisional application under Article 227 of the Constitution of India is directed against order no. 4 dated December 20, 2010 passed by the State Consumer Disputes Redressal Commission, West Bengal in FA No. 308 of 2010.

The petitioner alleging deficiency in service, had filed a complaint against the Branch Manager, State Bank of India, South City Branch Kolkata-700050 before the District Consumer Disputes Forum Kolkata, Unit-II being Case No. CDF/Unit-II/C.C. No. 558 of 2008 and prayed compensation of a sum of Nine Lakh rupees.

The petitioner alleged that on March 24, 2008 he issued a cheque to the L.I.C.I., Baranagar Branch of a sum of Rs. 5,262.40/- connected with his Savings Account standing with the aforesaid Bank but in spite of having sufficient fund in the said account as on the date of presentation of the said cheque, the same was dishonored on the ground of insufficiency of fund.

The Bank contested the said proceedings alleging that the petitioner, on January 24, 2008 had drawn a cheque of Rs. 25,001/- in favour of SBI Credit Card but the Bank from the said Savings Account of the petitioner mistakenly deducted an amount of Rs. 2,500/- only instead of Rs. 25,001/-. On detection of the said error, the Bank set a hold on the amount of

Rs. 25,001/- in the said account, as such, the cheque issued to the L.I.C.I for a sum of Rs. 5,262.40/- presented on March 27, 2008 was dishonored because the transactable amount available in the said account was Rs. 4086/- (Rs. 29,087- Rs. 25,001/-).

The District Consumer Disputes Redressal Forum held that there was deficiency in service on part of the said Bank in not informing the petitioner about the clamp of Rs. 25,001/- on his account, as such directed compensation of a sum Rs. 5000/- for deficiency in service and a sum of Rs. 2000/- on account of mental agony, harassment and costs of litigation to be paid to the petitioner by the Bank.

The petitioner aggrieved by the aforesaid order, preferred the connected appeal before the State Consumer Disputes Redressal Commission, West Bengal. The State Commission, by the order impugned, has affirmed the order of the District Forum.

The petitioner, prior to issuing the said cheque to L.I.C.I., issued a cheque of Rs. 25,001/- in favour of his Credit Card account. The Bank against the said cheque, erroneously deducted a sum of Rs 2500/- instead of the aforesaid cheque amount. The Bank, on detection of the said error, set a hold on the amount of Rs. 25,001/- in the said account, as such, on March 24, 2008, when the cheque issued by the petitioner to the L.I.C.I was presented to the said Bank, the available balance in the bank account of the petitioner was not sufficient to honour the said cheque.

However, due to the said error, the account of the petitioner reflected availability of sufficient fund to honour the cheque issued to the L.I.C.I. but in reality, there was only a sum of Rs. 4086/- in the account of the petitioner which was not sufficient to honour the said cheque.

The District Forum has rightly held that that there was deficiency in service on part of the said Bank in not informing the petitioner about the clamp of Rs. 25,001/- on his account and has rightly assessed the quantum of compensation for such deficiency in service.

Having regard to the degree of deficiency in service, the petitioner is not entitled to compensation of Nine Lakh rupees as prayed for, as such, the State Commission has rightly affirmed the said order of the District Forum.

This Court, for the aforesaid reasons, does not find any reason to interfere with the order impugned.

C.O. 1160 of 2011 is dismissed without any order as costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)