

23.08.2022
(D/L-08)
Ct.-18
(Susanta)

C.O. 3883 of 2019
With
I.A. No. CAN 2 of 2022

The Manager, Central Bank of India
-Vs-
Asoke Kumar Das & Ors.

Mr. Sounak Bhattacharya,
Mr. S. Pal Choudhuri,
Ms. Diya Nandi,
... For the Petitioner.

None appears on behalf of the opposite parties in spite of service.

The revisional application under Article 227 of the Constitution of India is directed against the order dated October 1, 2019 passed by the State Consumer Disputes Redressal Commission, West Bengal in First Appeal no. A/858/2018.

The opposite party no.1 deposited 17 number of National Saving Certificates as the collateral security of his house building loan.

The opposite party no. 1 alleged that non-encashment of some of the NSCs even after their maturity is a deficiency in service on the part of the petitioner and filed an complaint before the District Consumer Disputes Redressal Forum, District 24-Parganas (South) under Section 12 of the Consumer Protection Act, 1986 being

Complaint Case No. 609 of 2014 for compensation and damages.

The District Forum refused the prayer of the opposite party no. 1 but the State Consumer Dispute Redressal Commission West Bengal, in appeal allowed the said prayer of the opposite party no. 1 thereby directed the petitioner to pay the opposite party no. 1 compensation of Rs. 1,00,000/- and costs of a sum of Rs. 10,000/-. The said amounts were directed to be paid within 45 days from the date of the said order, in default a simple interest @ 9% per annum was directed to be accrued on the total amount of matured value of the NSCs and on the said amount of compensation.

The opposite party no. 1 levied the Execution Case No. E.A. 42 of 2018 for realization of a sum of Rs. 1,18,750.46/- alleging that the said amount has accrued by way of interest for the delayed payment of the said compensation and costs.

The District forum dismissed the said execution case holding that the order of the State Commission whereby the said compensation was directed to be paid was not communicated to the petitioner as required under Rule 7(10) of the West Bengal Consumer Protection Rules, 1987 as such, time for payment of the said compensation

amount is to be reckoned from the date when the petitioner obtained the certified copy of the said order of the State Commission and if the said time is so reckoned, the payment was made to the opposite party no. 1 within the said stipulated period of 45 days.

The State Commission in appeal against the said order, has set aside the order of the District Forum. The said order of the State Commission is under challenge in the present revisional application.

Mr. Saunak Bhattacharya, learned advocate for the petitioner relying on the decision of the Hon'ble Supreme Court in the case of ***HOUSING BOARD, HARYANA VS. HOUSING BOARD COLONY WELFARE ASSOCIATION AND ORS.*** reported in **(1995) 5 SCC 672** submits that the Hon'ble Supreme Court, while dealing with a provision under the Haryana Consumer Protection Rules, 1988 *pari materia* with the Rule 7(10) of the West Bengal Consumer Protection Rules 1987 has held that limitation period must be counted from the date of communication of the order duly signed and dated, therefore, the State Commission has committed a jurisdictional error in reversing the judgment of the District Forum.

Having heard the learned advocate for the petitioner and on perusal of the records, it appears that the petitioner came to learn about the details of his liability for payment of compensation and costs only after obtaining a certified copy of the order of the State Commission on May 23, 2018 and the opposite party no. 1 received the amount of compensation and costs on June 27, 2018, which is well within the stipulated time of 45 days.

The State Commission has committed a patent jurisdictional error in holding that uploading of the orders on the website of the Court is sufficient compliance of Rule 7(10) of the West Bengal Consumer Protection Rules, 1987. The Hon'ble Supreme Court in the decision cited by Mr. Bhattacharya has held that the order has to be communicated to the parties affected by the said order so that the party adversely affected therefrom may have a fair and reasonable opportunity of knowing the texts, reasons and contents thereof. The said observation of the Hon'ble Supreme Court although is in the context of reckoning the period of limitation in preferring an appeal under Section 15 of the Consumer Protection Act, 1986 but principle laid down in the said decision is equally applicable in

reckoning the period of limitation for the purpose of complying a time bound direction of the Court.

Summing up the discussion made above, this Court is of the view that the order impugned is not sustainable and is accordingly set aside, in consequence the first Appeal no. A/858 of 2018 is dismissed.

C.O. 3883 of 2019 is allowed with the above terms without any order as to costs.

In view of the disposal of the revisional application, the connected application being I.A. No. CAN 2 of 2022 is also disposed of accordingly without any order as to 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.)