

CASE NO.:  
Appeal (civil) 1879 of 2008

PETITIONER:  
Ganga Nagar Central Coop. Bank Ltd.

RESPONDENT:  
Pushpa Rani & Anr.

DATE OF JUDGMENT: 10/03/2008

BENCH:  
TARUN CHATTERJEE & HARJIT SINGH BEDI

JUDGMENT:  
J U D G M E N T  
(arising out of S.L.P.(Civil) No. 11391 of 2006 )

HARJIT SINGH BEDI, J.

1. Leave granted.

2. The Ganga Nagar Central Cooperative Bank Limited (hereinafter called the \023Bank\024) is an apex body under which respondent No.2, the Cooperative Mini Bank, Sujavalpur (hereinafter referred to as the \023Mini Bank\024) carries on its banking activities. The private respondents herein opened their savings/fixed deposit accounts with the Mini Bank and after having used the services of the bank for some time moved for the withdrawal of the money deposited by them. Their request was, however, turned down on the ground that there was no balance standing in their accounts. The respondents also visited the office of the Bank and requested for its intercession in the matter but this request too was refused. The depositors accordingly moved a petition before the District Forum, Sri Ganganagar praying for the release of the amounts deposited by them and for compensation and interest. Several pleas were taken by the respondents. The Mini Bank took the stand that the depositors had in fact no account with them whereas the Bank took the plea that they were in no way responsible for the management of the affairs of the Mini Bank which was an independent body and not responsible to it in any manner. The District Forum in its order dated 20th January 2003 held that the money had been deposited with the Mini Bank and it alone was liable for the deficiency of services and as such the depositors were entitled to relief. The Forum however absolved the Bank (the present appellant) of any liability by observing that there was no evidence to show that the Mini Bank was in any way working under the control of the Bank in these matters. The District Forum accordingly directed the release of the amount of the deposits plus Rs.2, 000/- as compensation and Rs.1,000/- as litigation expenses whereas the petition qua the Bank was dismissed. An appeal was thereafter filed before the State Commission by the Mini Bank against the aforesaid order and the Commission endorsed the findings of the District Forum that there had been a deficiency of services qua the depositors and further held that as the Bank was controlling and supervising the affairs of the Mini Bank and had guaranteed repayment upto Rs.10,000/- it too was liable to make good the loss to that extent and in conclusion observed:

\023In the result the impugned order is modified to the effect that the respondent No.2 bank shall also be jointly and severally liable to pay to the respondent complainants the decretal amount to the extent of Rs.10,000/- only.

In so far as the liability of the appellant bank is concerned that would be governed by the order of the Forum, but interest chargeable would be @ 9% p.a. instead of 12% p.a., as awarded by the Forum. The impugned orders shall stand modified accordingly\024.

3. The matter was thereafter taken in appeal to the National Consumer Commission by the Bank which maintained the findings of the State Commission and accordingly dismissed the revision petitions. It is in these circumstances that the matter is before us.

4. The learned counsel for the appellant Bank has raised only one argument during the course of the hearing. He has pointed out that before the Bank could be foisted with the liability to guarantee the repayment up to Rs.10,000/-, it was incumbent for the Mini Bank to have become a part of the Coffers Card Scheme which required the completion of certain formalities provided in the Scheme, as a pre-requisite for its applicability. It has been brought to our notice that clause 12 of the scheme provided that in order to become a part and parcel thereof an application had to be filed in form No.4 and the Mini Bank could only become part of the scheme after the formal approval had been granted by the competent authority and (it has been submitted) that as the Mini Bank had not made any request for being covered by the scheme, the question of the Bank being made liable up to Rs.10,000/- did not arise. It has also been highlighted as per the clauses of the scheme that the FDR issued thereunder was required to be embossed with the words that it was guaranteed up to Rs.10,000/- by the Bank and this too having not been done, there was no justification in fastening any liability on the Bank.

5. We have considered the arguments raised by the learned counsel for the appellant in the background of the fact that the respondents though served notice, did not put in appearance on the date of arguments. However several days after the judgment had been reserved, written submissions have been filed which we have perused and taken into consideration. We however find that there is no answer to the issues raised by the appellant\022s counsel. We therefore take it that assertions made by the learned counsel are admitted and that the Mini Bank had not opted to become a member of the Scheme which could have fastened a liability on the Bank. We accordingly allow the appeal, set aside the order of the National Commission dated 25th July 2005 and that of the State Commission dated 14th August 2003 and restore that of the District Forum.

6. There will, however, be no order as to costs.