

Gurgaon Gramin Bank vs Khazani & Anr on 4 September, 2012

Equivalent citations: AIR 2012 SUPREME COURT 2881, 2012 (8) SCC 781, (2012) 4 JCR 180 (SC), (2012) 4 CPJ 5, 2012 (8) SCALE 471, 2012 (4) CPR 1, (2012) 2 CLR 798 (SC), (2012) 119 ALLINDCAS 249 (SC), (2013) 2 ALLMR 448 (SC), (2013) 1 CIVLJ 335, (2013) 119 REVDEC 23, (2013) 96 ALL LR 258, (2013) 1 CAL LJ 18, (2013) 1 MPLJ 9, (2013) 1 CAL HN 108, (2013) 1 MAH LJ 19, (2013) 99 ALL LR 16, (2013) 4 CPR 377, (2012) 3 CURCC 188, (2012) 8 SCALE 471, (2012) 2 WLC(SC)CVL 599, (2012) 5 ALL WC 5314, (2012) 4 RECCIVR 326, (2012) 4 CPR 1, (2012) 5 BOM CR 481

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Bench: Dipak Misra, K.S. Radhakrishnan

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6261 OF 2012

@ Special Leave Petition (C) No. 8875/2010

Gurgaon Gramin Bank

.. Appellants

Versus

Smt. Khazani & Anr.

.. Respondents

J U D G M E N T

K. S. RADHAKRISHNAN, J.

1. Leave granted.

2. Number of litigations in our country is on the rise, for small and trivial matters, people and sometimes Central and State Governments and their instrumentalities Banks, nationalized or private, come to courts may be due to ego clash or to save the Officers' skin. Judicial system is overburdened, naturally causes delay in adjudication of disputes. Mediation centers opened in various parts of our country have, to some extent, eased the burden of the courts but we are still in the

tunnel and the light is far away. On more than one occasion, this court has reminded the Central Government, State Governments and other instrumentalities as well as to the various banking institutions to take earnest efforts to resolve the disputes at their end. At times, some give and take attitude should be adopted or both will sink. Unless, serious questions of law of general importance arise for consideration or a question which affects large number of persons or the stakes are very high, courts jurisdiction cannot be invoked for resolution of small and trivial matters. We are really disturbed by the manner in which those types of matters are being brought to courts even at the level of Supreme Court of India and this case falls in that category.

3. Jurisdiction of this Court is invoked by a Gramin Bank on an issue on which no question of law arises for consideration. Facts are as follows:

Smt. Khazani, the first respondent had availed of a loan from the appellant bank to purchase a buffalo and the same was insured for Rs.15000/- for a period from 06.02.2001 to 06.02.2004 vide Animal's tag No. NIA/03170 with the New India Assurance Company Ltd.– second respondent herein. Smt. Khazani had made payment of Rs.759/- as premium on 05.03.2001 vide receipt No. 170612. The buffalo unfortunately died on 27.12.2001. The post mortem was conducted by veterinary surgeon, Pataudi on 27.12.2001 vide PMR No.50.

4. Smt. Khazani lodged a claim for insurance money through the appellant bank and also supplied ear tag bearing No. NIA 03170 to the bank for forwarding the same to the insurance company. Since no steps had been taken either by the bank or by the insurance company, Smt. Khazani sent a notice on 30.07.2003 to the bank as well as to the insurance company, which yielded no results.

5. Smt. Khazani then filed a complaint bearing No.825 of 2004 before District Consumer Disputes Redressal Forum, Gurgaon. The complaint was allowed by the Forum vide its order dated 26.07.2007 with cost stating as follows:

“We, therefore, allow this complaint and direct Opposite Party No.2 to pay the insurance money of the buffalo in question to the complainant together with interest at the rate of 9% p.a. from the date of death of buffalo till actual payment is made. Opposite Party No.2 is also burdened to pay Rs.3,000/- to the complainant on account of cost of litigation and compensation for the harassment caused by Opposite Party No.2 to the complainant. Order of this Forum be complied within one month”.

6. The bank, dissatisfied with the order by the District Forum, filed Appeal No.2404/2007 before State Consumer Disputes Redressal Commission, Haryana, Panchkula. Rejecting the appeal, the appellate forum held as follows:

“Admittedly, the complainant had got her buffalo insured with the opposite party no.1 with Tag bearing No.NIA03170. The post mortem report Annexure C-2 which was conducted by the vet. surgeon is a cogent proof with respect to the death of buffalo and in the said report the vet. surgeon had mentioned the Tag number of

buffalo as 03170. However, the opposite party No.1 insurance company has denied having received of any Tag with the claim form submitted by the complainant. As per noting given by the field officer of the opposite party No.1, the buffalo was lying dead and there was no Tag in the ear of the dead buffalo. Thus, the burden shift on the opposite party No.2 that the Tag was not sent to the appellant – opposite Party No.1 for settling the claim in respect of the buffalo.”

7. The matter did not end there. The bank again moved the National Consumer Disputes Redressal Commission, New Delhi against the order dated 21.07.2009 passed by the State Commission, Haryana by filing a Revision Petition No. 4098 of 2009. The National Commission dismissed the Revision on 25.11.2009 stating as follows:

“Finding recorded by the State Commission is a finding of fact, which cannot be interfered with in exercise of Revisional jurisdiction. Under Section 21 of the Consumer Protection Act, 1986, the National Commission, in revision, can interfere with the orders only if it appears that the Authority below has exercised a jurisdiction not vested in it by law or has failed to exercise a jurisdiction so vested or has acted in the exercise of its jurisdiction illegally or with material irregularity.

We find no error/irregularity in the exercise of jurisdiction by the State Commission in its impugned order. Dismissed.”

8. The bank, still not satisfied, thought of bringing Smt. Khazani to the Supreme Court and filed the present Special Leave Petition against the order of the National Commission. Luckily, they got notice on the Special Leave Petition and Smt. Khazani has been brought to this Court. May be due to the ill-luck of the bank, the matter is before us. When the matter came up for hearing on 09.07.2012, we asked the counsel for the bank as to how much amount they had spent till date on this dispute which relates to the death of a buffalo, stake of which is only 15,000/-. We passed an order on 09.07.2012 which reads as follows:

“We find that the dispute is only with regard to Rs.15,000/- and the matter has still been brought to Supreme Court.

Bank will file affidavit within four weeks with regard to the amount spent for this litigation.

List after four weeks.”

9. The Chief Manager of the bank in compliance with this order filed an affidavit with regard to the amount spent for litigation so far in a chart form which is reproduced hereunder:

S.No.	Forum/Courts	Amount of	Misc. expenses	Total	Legal Fees
1.	In District Forum	2,200/-	200/-	2,400/-	
2.	In State Forum	1,750/-	300/-	2,050/-	
3.	In Supreme Court	7,500/-	1000/-	8,500/-	
	of India				
	Total				12,950/-

10. The Chief Manager stated in the affidavit that no bill was raised by the counsel for the bank for conducting the matter before the National Consumer Dispute Redressal Commission. We have not been told how much money has been spent by the bank officers for their to and fro journeys to the lawyers' office, to the District Forum, State Forum, National Commission and to the Supreme Court. For a paltry amount of Rs.15000/-, even according to the affidavit, bank has already spent a total amount of Rs.12,950/- leaving aside the time spent and other miscellaneous expenses spent by the officers of the bank for to and fro expenses etc. Further, it may be noted that the District Forum had awarded Rs.3,000/- towards cost of litigation and compensation for the harassment caused to Smt. Khazani.

Adding this amount, the cost goes up to Rs.15,950/-. Remember, the buffalo had died 10 years back, but the litigation is not over, fight is still on for Rs.15,000/-.

11. Learned counsel appearing for the bank, Shri Amit Grover, submitted that though the amount involved is not very high but the claim was fake and on inspection by the insurance company, no tag was found on the dead body of the buffalo and hence the insurer was not bound to make good the loss, consequently the bank had to proceed against Smt. Khazani.

12. We are of the view that issues raised before us are purely questions of facts examined by the three forums including the National Disputes Redressal Commission and we fail to see what is the important question of law to be decided by the Supreme Court. In our view, these types of litigation should be discouraged and message should also go, otherwise for all trivial and silly matters people will rush to this court.

13. Gramin Bank like the appellant should stand for the benefit of the gramins who sometimes avail of loan for buying buffaloes, to purchase agricultural implements, manure, seeds and so on. Repayment, to a large extent, depends upon the income which they get out of that. Crop failure, due to drought or natural calamities, disease to cattle or their death may cause difficulties to gramins to repay the amount. Rather than coming to their rescue, banks often drive them to litigation leading them extreme penury. Assuming that the bank is right, but once an authority like District Forum takes a view, the bank should graciously accept it rather than going in for further litigation and even to the level of Supreme Court. Driving poor gramins to various litigative forums should be strongly deprecated because they have also to spend large amounts for conducting litigation. We condemn this type of practice, unless the stake is very high or the matter affects large number of persons or affects a general policy of the Bank which has far reaching consequences.

14. We, in this case, find no error in the decisions taken by all fact finding authorities including the National Disputes Redressal Commission. The appeal is accordingly dismissed with cost of

Rs.10,000/- to be paid by the bank to the first respondent within a period of one month. Resultantly, the Bank now has to spend altogether Rs.25,950/- for a claim of Rs.15,000/-, apart from to and fro travelling expenses of the Bank officials. Let God save the Gramins.

.....J. (K.S. Radhakrishnan)J. (Dipak Misra) New Delhi, September 4, 2012