

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

FIRST APPEAL NO. 1652 OF 2017

(Against the Order dated 04/05/2017 in Complaint No. 79/2017 of the State Commission
Kerala)

1. STATE BANK OF TRAVANCORE (NOW MERGED WITH
STATE BANK OF INDIA)

THROUGH ITS MANAGER.KAZHAKKUTTOM BRANCH,
KAZHAKKUTTOM P.O.

THIRUVANANTHAPURAM-695582

KERALA

.....Appellant(s)

Versus

1. DR. S. SUNIL

SOUGANTHIKAM T.C.1/858, JNS-5, JAINAGAR.
MEDICAL COLLEGE P.O..

THIRUVANANTHAPURAM

KERALA

.....Respondent(s)

BEFORE:

**HON'BLE MR. SUBHASH CHANDRA,PRESIDING MEMBER
HON'BLE DR. SADHNA SHANKER,MEMBER**

FOR THE APPELLANT : MR. RITESH KHARE, PROXY ADVOCATE FOR
MR. SIDDHARTH SANGAL, ADVOCATE

FOR THE RESPONDENT : MR. JAIMON ANDREWS, ADVOCATE WITH
MR. SHYAM PADMAN, ADVOCATE
MR. PIYO NAROLD JAIMON, ADVOCATE

Dated : 19 August 2024

ORDER

DR. SADHNA SHANKER, MEMBER

1. This appeal has been filed under section 19 of the Consumer Protection Act, 1986 (hereinafter referred to as the 'Act') in challenge to the Order dated 04.05.2017 of the State Commission in complaint no. 79 of 2017, whereby the complaint was partly allowed.
2. We have heard the learned counsel for the appellant (hereinafter referred to as the 'bank') and learned counsel for the respondent (hereinafter referred to as the 'complainant') and perused the record.
3. There is a delay of 02 days in filing the present appeal.

In the interest of justice and considering the reasons mentioned in the application for condonation of delay, the short delay in filing the appeal is condoned.

4. The facts, in brief, are that the complainant availed a housing loan from the bank and as a security against the loan, he submitted the sale deed No. 1777 of 2009 dated 09.07.2009, Tax receipts, possession certificate, location certificate, encumbrance certificate and title clearance certificate, with the bank. It is alleged that after closing the loan on 03.11.2016 when he approached the bank to get back the title deed, it was found to be lost. Hence, alleging deficiency in service on the part of the bank, the complainant filed a complaint before the State Commission, with the following prayer:

A) To pass an order directing the opposite party to pay an amount of Rs. 25,00,000/- towards compensation for negligence and the deficiency in service committed by the opposite party.

B) To pass an order directing the opposite party to comply with the legal formalities for issuing certified copy of the title deed and hand over the certified copy of the title deed along with the registered release deed.

C) To pass an order allowing the complainant to realize Rs. 25,000/- as costs of the proceedings from the opposite party.

D) To grant such other reliefs which are incidental to the complaint and which the Hon'ble Commission deems fit and proper in the circumstances of the case.

5. The bank contested the complaint by filing written version stating that the complainant has suppressed the material fact of having filed a complaint before the Banking Ombudsman and the order passed by the statutory authority and the complaint is barred by the principles of estoppels. It is also stated that the State Commission did not have jurisdiction to entertain a complaint of this nature. It is also stated that the matter involves complicated question of law and facts involved in this case, which could be resolved in a civil court. It is also stated that the title deed could not be traced out and the same will be handed over as and when it is traced out and there is no deficiency in service on the part of the bank.

6. The State Commission, vide its order dated 04.05.2017, partly allowed the complaint and directed the bank to pay an amount of Rs. 5,00,000/- with interest at the rate of 12% per annum from the date of complaint till the realization.

7. Being aggrieved by the order dated 04.05.2017 of the State Commission, the bank filed an appeal before this Commission.

8. The main question before us is as to whether there is deficiency in service on the part of the bank.

9. Before this Commission, learned proxy counsel for the bank has argued that the bank undertook all genuine efforts to find the original title deed documents at all possible place but could not find the same, hence, the bank arranged for the certified copy of the said title deed from the office of the Sub-Registrar and offered the same to the complainant. Therefore, no actual loss or injury has been caused to the complainant. He further argued that the complainant has not produced any evidence to show that any loss was actually occurred to him and in the absence of any documentary evidence, an order dated 04.05.2017 awarding

compensation of Rs. 5,00,000/- by the State Commission is without any basis, therefore, the same is liable to be set aside.

10. Learned counsel for the complainant relied on the State Commission’s order and reiterated that the loss of title deed led to a dent in the value of the property and the complainant will not be able to avail any loan against the said property in future. He further argued the bank had admitted that it had lost the title deed, therefore, it is a clear deficiency in service on the part of the bank.

11. In the instant case, it is undisputed that the complainant had taken the housing loan from the bank and the said loan amount was repaid in full. It is admitted that the original title deed mortgaged with the bank was lost by the bank. We are of the view that the bank, being the custodian of the title deeds, is responsible for the loss of the title deed and the same amounts to a deficiency in service on the part of the bank. The legal title of the complainant is definitely compromised with loss of original property documents and the supply of certified copies does not take away the element of loss. Reliance is placed on the decision of this Commission in the case of **Pooja Pincha & Anr. Vs. State Bank of India IV** (2016) CPJ 28 (NC) wherein it has been held as under:

“The loss of documents of ownership is not venial and trivial matter, the wearer knows where the shoe pinched and the bank is terribly remiss in discharge of its duties.”

12. This Commission in the case of **Citi Bank & Ors. Vs. Ramesh Kalyan Durg & Ors.** MANU/CF/0180/2016 has held that the complainant would be compensated, publication cost shall be borne by the bank and the bank will get certified copies of all documents at its cost apart from suitably compensating and indemnifying the complainant if he suffers in the future due to the loss of the documents.

13. Also, this Commission in the case of **Bank of India vs. Mustafa Ibrahim Nadiadwala** MANU/CF/0809/2016 has held that the bank is liable to pay compensation to the complainant because the value of the property is bound to be affected if the original title deed is lost by the bank.

14. On the basis of above, we are of the view that the State Commission has passed a well-reasoned order and the compensation granted by the State Commission appears to be commensurate with the loss and injury suffered by the complainant.

15. The first appeal, being without merit, is dismissed.

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**SUBHASH CHANDRA
PRESIDING MEMBER**

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**DR. SADHNA SHANKER
MEMBER**