

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 1101 OF 2020

(Against the Order dated 29/08/2020 in Appeal No. 2187/2012 of the State Commission Madhya Pradesh)

1. KOTAK MAHINDRA BANK LTD.
B-247 3RD FLOOR, PRIYADARSHINI VIHAR
EAST
DELHI

.....Petitioner(s)

Versus

1. DHEERAJ SINGH BELDAR
S/O SH. MADU SINGH R/O BYSA POST PIPALIYA
SET, TEHSIL NALKHEDA
SHAJAPUR
MADHYA PRADESH

.....Respondent(s)

BEFORE:

HON'BLE MR. C. VISWANATH, PRESIDING MEMBER

For the Petitioner : Mr. R.K. Ranjan, Advocate

For the Respondent :

Dated : 05 Jan 2021

ORDER

C. VISWANATH

1. The present Revision Petition has been filed by the Petitioners against the order dated 29.08.2020 of Madhya Pradesh State Consumer Disputes Redressal Commission, Bhopal (for short "the State Commission") in First Appeal No.2187/2012 whereby the Appeal was partly allowed.

2. Complainant/Respondent purchased a Farmtech 35 Champion Tractor, bearing Registration No.M.P.-42-A-0908 and took a loan of Rs.3,23,255/- from the Appellant/Opposite Party. The loan was to be repaid in 14 half yearly instalments of Rs.39,250/-. According to the Appellant, Complainant paid six instalments. Seventh instalment which was due in May, 2010 was not paid by the Complainant on time. Opposite Party issued recalling notice on 28.07.2010, whereby the Complainant was given seven days time to deposit the payment. Thereafter, on 13.08.2020, the Appellant seized the tractor. In order to realise the loan amount, the Petitioners/Opposite Parties

auctioned the tractor on 01.10.2020. Alleging deficiency in service and unfair trade practice on the part of the Opposite Party, the Complainant filed a Complaint before the District Forum with the following prayer: -

“ Therefore, it is requested that the complaint be allowed and the amount of Rs.42,000/- along with interest to be recovered from the opposite party pertaining to damage occurred due to lack in service, compensation for mental agony and expenses of present case and the tractor of the applicant be released. The opposite party to be further directed to produce the loan account details. Any other relief which deems fit and proper to this Hon’ble Forum may pass in favour of applicant.”

3. The Complaint was contested by the Respondent/Opposite Party. It was stated that since the Complainant neither replied to the notice, nor deposit the loan amount within the stipulated time, the tractor was seized by the Petitioners and the loan amount was adjusted by selling the same.

4. The District Forum after hearing both the Parties and perusing the record, directed as follows:
-

“Therefore, the complaint filed on behalf of complainant is disposed off in such a way that the opposite party has to pay the deposited amount Rs.2,46,678/- along with the interest of 9% per annum from the date of payment last instalment to the date of payment within 2 months to the complainant. The opposite party should pay the amount of Rs.5,000/- against financial and mental agony to the complainant. The demand notices were sent by the opposite party to the complainant in respect of recovery of the loan is also set aside in view of their act of illegally possessing and selling the tractor of complainant. The complaint expense of Rs.1,000/- is decided which shall be paid by the opposite party.

5 Aggrieved by the order of the District Forum, Petitioners/Opposite Parties preferred an appeal before the State Commission. State Commission observed as follows: -

“Therefore, the appeal is partly allowed while amending in clause 12 of order of the Forum that the amount compensated by the Forum to the respondent is reduced to Rs.1,30,423/- in place of Rs.2,46,678/-. The appellant should pay the above said amount to the respondent along with 9% interest per annum from the date of payment of last instalment to the date of payment. The order in respect of mental agony amount of Rs.5,000/- and case expense amount of Rs.1,000/- passed by the Forum is upheld. The parties shall bear expenses of this appeal in its own.”

6. Aggrieved by the order of the State Commission, Petitioners/Opposite Parties preferred the present Revision Petition. Heard the Learned Counsels for the Petitioners and carefully perused the record.

7. Learned Counsel for the Petitioners submitted that the tractor of the Complainant was seized as the Respondent/Complainant failed to deposit the amount within the stipulated period. It was also submitted that the Petitioners sent several reminders before auction of the tractor. He also submitted that the tractor was auctioned, since there was an apprehension that the Respondent will become a defaulter in future.

8. Admitted facts of the case are that Complainant/Respondent purchased a Farmtech 35 Champion Tractor, bearing Registration No.M.P.-42-A-0908 and took a loan of Rs.3,23,255/- from the Petitioners/Opposite Parties. According to the Petitioners, the Complainant paid six instalments in time. Seventh instalment which was due in May, 2010 was not paid by the Complainant on time. Petitioners issued recall notice on 28.07.2010, whereby Complainant was given seven days time to deposit the payment. Thereafter, on 13.08.2020, the Petitioners seized the tractor. In order to realise the loan amount, the Petitioners/Opposite Parties auctioned the tractor on 01.10.2020.

9. Learned Counsel for the Petitioners contention was that the tractor was seized, as the Complainant did not pay the instalment amount in time nor he replied to their notice. Petitioners themselves admitted that the Complainant had paid six instalments in time. Recall notice was issued on 28.07.2010 and the tractor was seized on 13.08.2010. Learned Counsel for the Petitioners admitted that the auction notice was also given on 13.08.2010 itself, after seizure of the tractor. As per the Petitioners, the Respondent was issued many reminders to deposit the amount. However, notices were issued by the Petitioners to deposit the entire amount, beyond the means of the Respondent. The Respondent sought to deposit the demanded amount, after the crop season, which is expected of a farmer. If the Respondent was to deposit the entire amount and not in instalments, there was no purpose of taking a loan. It defeats the very scheme of scheduling repayment of loans. In a tiring hurry, the tractor was seized, causing great hardship to the Respondent. Merely based on an apprehension that the Respondent would become a defaulter in future, the Learned Counsel for the Petitioners stated that action was taken to seize and auction the vehicle to realise the dues. Apprehension of the Petitioners that the Respondent/Complainant would become defaulter in future, cannot be a valid ground for seizure and auction of the tractor. Hurried seizure of the tractor and auctioning the same on the basis of assumptions and surmises, certainly amounts to unfair trade practice on the part of the Petitioners.

10. In view of foregoing discussion, I find no infirmity in the impugned order of the State Commission. Revision Petition is dismissed.

.....
C. VISWANATH
PRESIDING MEMBER