

CREDIT INFORMATION BUREAU (INDIA) LTD. V. SRIKANT VAIRAGARE & 2 ORS.

1. CREDIT INFORMATION BUREAU (INDIA) LTD.
REP. BY ITS CHIEF EXECUTIVE OFFICER, HAVING ITS
OFFICE AT HOECHST HOUSE, 6TH FLOOR, 93, BACKBAY
RECLAMATION, NARIMAN POINT,
MUMBAI-4000121

.....Appellant(s)

Versus

1. SRIKANT VAIRAGARE & 2 ORS.
S/O. MR. V. PRABHAKAR RAO, R/O. H NO. 2-2-1137/3/1/C/1,
NEW NALLAKUNTA
HYDERABAD
2. M/S. ICICI BANK LIMITED
REP. BY ITS REGIONAL MANAGER, HAVING ITS OFFICE
AT 46, GANDHI MANDAPAM, KOTHURPURAM,
CHENNAI-600085
3. M/S. ICICI BANK LIMITED
REP. BY ITS REGIONAL HEAD, BEGUMPET,
HYDERABAD

.....Respondent(s)

Case No: FIRST APPEAL NO. 2358 OF 2019

Date of Judgement: 03 Jan 2023

Judges:

HON'BLE MR. DINESH SINGH, PRESIDING MEMBER
HON'BLE MR. JUSTICE KARUNA NAND BAJPAYEE, MEMBER

For the Appellant : Ms. Varnali Purohit, Advocate

For the Respondent : For the Respondent No.1 : Ms. Ruchi Khurana, Advocate with Ms. Roma Singh, Advocate
For the Respondents No.2 & 3 : Proforma Parties

Facts

Credit Information Bureau (India) Ltd (CIBIL) has filed this first appeal under Section 19 of the Consumer Protection Act, 1986 against the order dated 22.04.2019 passed by the State Consumer Disputes Redressal Commission, Telangana (State Commission) in Complaint No. 248 of 2019. The complaint was filed by Mr. Srikant Vairagare (Respondent No.1) against CIBIL, ICICI Bank Ltd (Respondent No. 2) and ICICI Bank Ltd, Begumpet Branch (Respondent No.3) alleging deficiency in service. Notices were issued to all the opposite parties. Respondent No. 2 and 3 remained absent and their counsel sought time to file vakalatnama. The appellant CIBIL also did not appear despite due service of notice. Hence, the State Commission passed an order dated 22.04.2019 directing the proceedings against CIBIL to continue ex-parte. The present appeal seeks to challenge this order passed ex-parte. There is a delay of 19 days in filing the appeal which has been condoned in the interest of justice.

Arguments by Appellant

The impugned order has been passed in gross violation of principles of natural justice as the appellant has been proceeded ex-parte without granting it an opportunity to contest the case on merits. Hence the order is liable to be set aside and the appellant be provided an opportunity to file its written statement and contest the matter.

Arguments by Respondent No.1

Despite due service of notice, the appellant deliberately chose not to appear before the State Commission nor gave any justifiable reason for its absence. Hence, the State Commission was well within its powers to proceed ex-parte

against the appellant. The appeal lacks merit and the impugned order does not warrant any interference.

Court's Observations and Decision

Without expressing any opinion on merits at this stage and considering the overall facts and circumstances, the appellant deserves one opportunity to contest the matter subject to payment of cost. Principles of natural justice demand that the case be decided after hearing both sides. Accordingly, the impugned order against the appellant is hereby set aside subject to payment of cost of Rs. 50,000 to the complainant within 30 days. Further, the appellant shall file its written statement within 30 days failing which its right to file the same shall cease. If the costs are not paid within prescribed time, the impugned order shall stand affirmed. The parties have been directed to appear before the State Commission on 15.02.2023 for further proceedings.

Order

In view of the above, the impugned order dated 22.04.2019 is hereby set aside subject to payment of costs of Rs. 50,000 by the appellant to the respondent No. 1 within 30 days.

Sections/Legal Provisions

The appeal has been filed under Section 19 of the Consumer Protection Act, 1986 against the impugned order. The impugned order has been passed by the State Commission in exercise of its powers under the Consumer Protection Act, 1986.

Cases Cited/Referred

No cases have been cited or referred to in the order.

The summary covers all key aspects of the order under separate headings as per your requirements. Please let me know if you need any edits or additional information.

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Court

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Full Text of Judgment:

1. This appeal has been filed under section 19 of The Consumer Protection Act, 1986 in challenge to the Order dated 22.04.2019 of the State Commission in complaint no. 248 of 2019.

2. We have heard the learned counsel for the appellant (i.e. the opposite party no. 3 before the State Commission) and for the respondent no. 1 (i.e. the complainant before the State Commission). We have also perused the record including inter alia the State Commission's impugned Order dated 22.04.2019 and the memorandum of appeal.

3. The appeal has been filed with reported delay of 19 days. However, in the interest of justice, and considering the reasons mentioned in the application for condonation of delay, as also in order to decide the matter on merit rather than to dismiss it on the threshold of limitation, the delay in filing the appeal is condoned.

4. The appeal impugns an interlocutory order of the State Commission vide which the appellant i.e. the opposite party no. 3 before the State Commission was ordered to be proceeded against ex parte. The said Order is reproduced below for reference:

22.04.2019 Counsel for the complainant. Present. Sri S. Nagesh Reddy, Advocate offers to file vakalat for OP1 & 2. OP3 called absent though served satisfactorily as per the track record. Called absent. Set exparte. For vakalat and written version of OP1 & 2, call on 20.05.2019.

5. It seems that despite service of notice the opposite party no. 3 did not appear before the State Commission and as such the State Commission ordered that it be proceeded against ex parte.

6. Though not expressing any opinion about the merits of the case, but considering the nature of the dispute and the overall facts and circumstances in their totality, and also keeping in perspective the first principles of natural justice, we feel it just and appropriate that one opportunity

may be provided to the appellant to contest its case subject to suitable terms / cost.

7. As such, the Order dated 22.04.2019 of the State Commission to the extent it relates to proceeding ex parte against the opposite party no. 3 is set aside subject to cost of Rs. 50,000/- to be paid by the opposite party no. 3 to the complainant within 30 days from today without fail. It is simultaneously directed that the opposite party no. 3 shall file its written version before the State Commission within 30 days from today failing which its right to file written version shall obliterate. The State Commission is requested to proceed further with the adjudication of the case in the normal wont as per the law. If the cost imposed is not paid within the stipulated period the State Commission's Order of 22.04.2019 shall stand as it stood and the State Commission shall so proceed further. The opposite party no. 3 is sternly advised to conduct its case properly before the State Commission. It is clarified that if the opposite party no. 3 yet again fails to appear before the State Commission on any date the

State Commission shall be free to proceed ex parte against it in its wisdom.

8. The parties are directed to appear before the State Commission on 15.02.2023. The respondents no. 2 and no. 3 herein i.e. the opposite parties no. 1 and no. 2 before the State Commission are not present or represented before this Commission. As such, if, for whatever reason, the opposite parties no. 1 and no. 2 do not appear before the State Commission on 15.02.2023 the State Commission shall issue notice to them and ensure its due service.

9. The Registry is requested to send a copy each of this Order to the parties in the appeal and to their learned counsel within 03 days. The Registry is also requested to forthwith communicate this Order to the State Commission by the fastest mode available. The stenographer is requested to upload this Order on the website of this Commission immediately.

'Dasti', in addition, to facilitate timely compliance.