

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10814 of 2011

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. Krishna Kumar Prasad son of Late Alakh Niranjana Prasad Mohalla-Yusufganj, P.S-Laheriasarai, P.O-Darbhanga, District-Darbhanga.

.... Petitioner/s

Versus

1. The District Consumer Forum, Patna. Presented Through Its Registrar, The District Consumer Forum, Patna.
2. The Mitra Mandal Co-Operative Housing Society Ltd. Represented Through Its Secretary, Mitra Mandal Co-Operative Housing Society, Ltd, Purandarpur, Patna.
3. The Secretary Mitra Mandal Co-Operative Housing Society Ltd., Purandarpur, Patna.
4. Arun Kumar Sinha Sri Jalendra Prasad Singh, Resident Of Village-Nihura, P.O- Dhibra, P.S-Phoolwarisharif, District-Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shri Prakash Srivastava
Miss Anu Priyadarshani

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

4 08-09-2015 Heard Mr. Shri Prakash Srivastava for the petitioner.

No one appears on behalf of the respondents.

The petitioner at some point of time was the Secretary of the Mitra Mandal Co-operative Housing Society, registered under the Co-operative Societies Act. Respondent no.4 filed a complaint before the District Consumer Dispute Redressal Forum (for short 'the Forum') alleging deficient service by the office bearer(s) of the Society. This gave rise to Case No. 1303 of 1993. The Forum disposed of the case on 14.11.1994 (Annexure-2/A). It appears that an appeal was filed thereagainst by the



petitioner before the State Commission. The same was dismissed for non prosecution on 07.06.2002. The petitioner thereafter chose to file a writ petition before this Court vide CWJC No. 9641 of 2004 in which it was not brought to the notice of the Court that an appeal had already been preferred which stood dismissed for default. Considering the pleadings on record and submissions made by the petitioner, the writ application was disposed of on 02.11.2006 (Annexure-3) permitting the petitioner to file an appeal under section 15 of the Consumer Protection Act, 1986 to assail the order passed by the Forum on any count. Acting on the said order, the petitioner filed an application for restoration of Appeal No. 627 of 1992. The same was dismissed on 19.01.2007 by the State Commission, copy whereof is enclosed at Annexure-5. From paragraph 5 and 6 of the said order, it appears that more than adequate opportunity was granted to the petitioner to press the appeal on merit but he failed to do so. Consequently, the appeal was dismissed. The court did not find any merit in the restoration application which was also dismissed. The said order was appealed against unsuccessfully by the petitioner before the National Consumer Disputes Redressal Commission, New Delhi vide Revision Petition No. 954 of 2007. The petition was dismissed by order dated 3rd May, 2007 as nobody was present to



press the said revision petition. Dissatisfied therewith, the petitioner filed a special leave petition before the Apex Court which was dismissed on 18.01.2008, copy whereof has been enclosed as Annexure-7. In the meanwhile, the Execution Case No. 55 of 1995 was filed by respondent no.4 herein for implementation/execution of the order. The present writ application has now been again filed calling in question the order passed by the District Forum on 14.11.1994 and also for directing the executing court to release his name from the said proceeding.

Learned counsel for the petitioner contended that the notice of the proceeding before the District Forum was not issued and served upon the petitioner. The order passed by the District Forum therefore, would not bind him.

Precisely with this grievance the petitioner filed the writ petition before this Court which was disposed of permitting him to file an appeal. It appears from the order passed by this Court on the writ petition that the factum of having filed an appeal was not disclosed. If there was any error in the order passed by the District Forum, the same could have been corrected in appeal which, in fact, was filed but for one reason or the others, the petitioner got the same dismissed. Several years thereafter, the

restoration application was filed which again was dismissed which remained intact on being challenged before the National Consumer Dispute Redressal Commission as well as the Apex Court.

Regard being had to the factual background noticed hereinabove, in my view, the present writ application merits to be dismissed. I order accordingly.

(Kishore Kumar Mandal, J)

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