



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27/1/2015

C O R A M

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (NPD) (MD) No.2018 of 2014

& MP (MD) No.1 & 2 of 2014

WEB COPY

1. Sudi Electronics
rep. By its Proprietor Raja
Head Office, 66/15 Balaji Nagar
Madurai Road, Tirunelveli.

2. Sudi Electrronics
rep. By its Manager
Branch Office, Plot No.398
Anna Nagar Main Road
Madurai.

... Petitioner/Petitioner/
Respondent/Respondent

Vs

P. Paulraj ... Respondent/Respondent/
Petitioner/Petitioner

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order passed by the District Consumer Forum, Virudhunagar District at Srivilliputhur in E.A.No.4 of 2013 in E.P.No.1 of 2011 in C.C.No.21 of 2008 dated 13/2/2014 and set aside the same and further direct the District Forum, Virudhunagar District at Srivilliputhur to set aside the exparte order in C.C.No.21/08 dated 30.03.10 and proceed in accordance with law by conducting proper trial.

For Petitioner ... Mr.S.M.Anantha Murugan

For Respondent ... Mr.S.Jawahar

O R D E R

This Civil Revision Petition is directed against the order of arrest passed by the District Consumer Disputes Redressal Forum, Virudhunagar at Srivilliputhur.

2. The respondent had filed a complaint in C.C.No.21 of 1998 claiming Rs.1,2,500/- as damages and compensation for the defective service in providing a xerox machine by the petitioners. C.C.No.21 of 1998 was allowed ex parte. Thereafter, E.P was filed by the respondent herein before the District Consumer Disputes Redressall Forum, Virudhunagar at Srivilliputhur. Even in the Execution Petition, the petitioners herein did not appear. Therefore, in E.P.No.1 of 2011, an order of arrest was sought for. As per C.C.No.21 of 2008, the respondent herein is entitled to recover Rs.1,27,500/-.

3. It is also contended that E.A.No.3 of 2013 was filed by the petitioners herein for setting aside the ex parte decree in C.C.No.21 of 2008. A conditional order was passed directing him to deposit 50% of the



decree amount. Despite the conditional order, the petitioners herein did not come forward to deposit the amount. Hence the order of arrest was issued in E.A.No.4 of 2013. The above said order is being challenged by the petitioners.

4. Heard both sides.

5. The learned counsel for the respondent raised an objection regarding the maintainability of the revision. He submitted that any person, who is aggrieved by the order passed by the District Consumer Disputes Redressal Forum, has to prefer an appeal before the State commission within a period of thirty days.

6. Section 27 A of the Consumer Protection Act, 1986 is usefully extracted hereunder:-

"Appeal against order passed under Section 27:-

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal under Section 27, both on facts and on law, shall lie from

(a). the order made by the District Forum to the State Commission;

(b). the order made by the State Commission to the National Commission; and

(c). the order made by the National Commission to the Supreme Court.

(2) Except as aforesaid, no appeal shall lie to any Court from any order of a District Forum or a State Commission or the National Commission.

(3). Every appeal under this section shall be preferred within a period of thirty days from the date of an order of a District Forum or a State Commission or, as the case may be, the National Commission:

Provided that the State Commission or the National Commission or the Supreme Court, as the case may be, may entertain an appeal after the expiry of the said period of thirty days, if, it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days."

7. The above Section was introduced by Act 62 of 2002 with effect from 15/3/2003. An alternative remedy is provided in the Act itself and unless the order under challenge is wholly without jurisdiction or the vires of the statute is under challenge, a revision under Article 227 of the Constitution is not maintainable.

8. When the alternative remedy is available, the petitioners herein could not maintain the revision before this Court and their remedy is only to file an appeal under Section 27 A of the Consumer Protection Act,



1986. In support of his case, the learned counsel for the respondent also pressed into service to the decision reported in 2011 (14) SCC - 337 (NIVEDITA SHARMA Vs. CELLULAR OPERATORS ASSOCIATION OF INDIA AND OTHERS), wherein in paragraph 16, it is observed and held as follows:-

"16. It can, thus, be said that this Court has recognised some exceptions to the rule of alternative remedy. However, the proposition laid down in THANSIGH NATHMAL VS. SUPERINTENDENT OF TAXES and other similar judgments that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance still holds the field."

9. In view of the above, this Civil Revision Petition is not maintainable and the same is dismissed.

10. In the result, this Civil Revision Petition is dismissed as not maintainable. No costs. Consequently, the connected Miscellaneous Petitions are also dismissed. However, liberty is given to the petitioner to challenge the order passed in E.A.No.4 of 2013 on the file of the District Consumer Forum, Virudhunagar District at Srivilliputhur by availing the alternative remedy of appeal under Section 27 A of the Consumer Protection Act, 1986 within thirty days from the date of receipt of the copy of this order and the same shall be entertained by the State Commission and decided on merits.

Sd/-

Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar

To

The District Consumer Forum,
Virudhunagar District at Srivilliputhur.

+1cc to MR.SM.ANANTHA MURUGAN, ADVOCATE IN SR : 4026

Mvs

SR : 19.02.2015 : 3p/3c

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