

HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

WRIT PETITION No.38594 of 2015

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ORDER : (per Hon'ble Sri Justice R.Subhash Reddy)

This writ petition is filed by the petitioner seeking *Mandamus* declaring the action of the 2nd respondent in filing penalty petition in E.A.No.8 of 2014 in C.C.No.406 of 2008 before the 1st respondent-District Consumer Forum-I, Visakhapatnam, invoking Section 27 of the Consumer Protection Act, 1986 (for brevity "the Act") without exhausting the remedies available under Sections 24 and 25 of the Act, as arbitrary, illegal and contrary to the procedure contemplated under the Act and, consequently, sought a direction to set aside the Non-bailable Warrants issued by the 1st respondent-District Consumer Forum against the petitioner.

2. On the complaint filed by the 2nd respondent-complainant vide C.C.No.406 of 2008 before the 1st respondent-District Consumer Forum-I, Visakhapatnam, by order dated 27.10.2009, directions were issued to the petitioner to refund Rs.1,22,000/- with interest at 12% per annum from 27.02.2008 till the date of payment to the complainant. On the ground that such directions were not complied with, the 2nd respondent-complainant has filed an application in E.A.No.8 of 2014 in C.C.No.406 of 2008 under Section 27 of the Act, wherein the 1st respondent-District Consumer Forum has passed order dated 09.07.2015 directing the petitioner to comply with the order dated 27.10.2009 of the Forum within one month, failing which ordered for issuance of warrant against the petitioner.

3. Against the order dated 09.07.2015 in E.A.No.8 of 2014 in C.C.No.406 of 2008 passed by the 1st respondent-District Consumer Forum-I, Visakhapatnam, the petitioner carried the matter in appeal vide F.A.No.338 of 2015 before the A.P. State Consumer Disputes Redressal Commission, Hyderabad. It is also stated that interlocutory application was also filed, in which notice was ordered.

4. In this writ petition, it is mainly contended by the learned counsel for petitioner that under the scheme of the Act, it is not open to the 2nd respondent to invoke the provisions under Section 27 of the Act, without exhausting the remedies available under Sections 24 and 25 of the Act.

5. Inasmuch as the petitioner has already filed an appeal being F.A.No.338 of 2015 before the A.P. State Consumer Disputes Redressal Commission, Hyderabad, it is for the petitioner to pursue the said appeal raising all the grounds, including the ground urged before this Court.

6. In view of the pendency of F.A.No.338 of 2015 before the A.P. State Consumer Disputes Redressal Commission, Hyderabad, there is no reason in entertaining this writ petition, at this stage. As it is represented that notice was ordered in interlocutory application filed in F.A.No.338 of 2015 pending before the A.P. State Consumer Disputes Redressal Commission, Hyderabad, we deem it appropriate to dispose of the writ petition granting liberty to the petitioner to pursue the said application before the A.P. State Consumer Disputes Redressal Commission, Hyderabad.

7. Subject to the above direction, this writ petition is disposed of, at the admission stage. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A.SHANKAR NARAYANA

27.11.2015.

Msr

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