

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

WRIT PETITION No.26650 of 2015

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

This writ petition is filed by the petitioner seeking to prohibit respondent No.2 in proceeding with the complaint in C.C.No.222 of 2014 on its file as without jurisdiction, as the same does not fall within the provisions of the Consumer Protection Act, 1982 (for brevity "the Act") and to set aside the exparte order dated 06.04.2015 passed by the 2nd respondent with a consequential direction to reject the said complaint.

2. In compliance with the orders passed by the 2nd respondent-District Consumer Disputes Redressal Forum, Karimnagar, the respondent-Insurance Company in C.C.No.8 of 2013 has deposited a sum of Rs.1,11,036/- to credit of the said case, which is payable to the 3rd respondent. The 2nd respondent-Forum, inturn, has issued a cheque bearing No.013813, dated 10.06.2014, for a sum of Rs.1,11,036/- in favour of the 3rd respondent. When the 3rd respondent presented the said cheque before the petitioner-Bank, the same was not honoured with an endorsement "We are unable to pay". Alleging deficiency of service, when the 3rd respondent filed a complaint being C.C.No.222 of 2014 before the 2nd respondent-Forum, it has passed an exparte order dated 06.04.2015 for non-appearance of the petitioner-Bank. Hence, the present writ petition.

3 . During the course of hearing, Sri E. Madan Mohan Rao, learned counsel for the petitioner has brought to the notice of this Court that the Government of Andhra Pradesh has issued a letter No.1297/A/37/A1/DCM II/2014, dated 14.05.2014, wherein instructions were issued to the Chief General Manager of the petitioner-Bank, directing to issue instructions to all the Branches not to honour the cheques issued on or before 31.05.2014 by the existing State of Andhra Pradesh, after 02.06.2014. It is the case of the petitioner-Bank that in view of the said instructions, the cheque was not honoured.

4. Learned counsel for the petitioner-Bank submits that there is no deficiency of service and the aforesaid complaint is without jurisdiction. The learned counsel would also submit that as an exparte order is passed, there is no provision in the Act to set aside the said exparte order.

5. On the other hand, Sri Venkateshwar Varanasi, learned counsel for the 3rd respondent would submit that without any just reason, the petitioner-Bank has not honoured the alleged cheque presented before it. The learned counsel would further submit that instead of contesting C.C.No.222 of 2014 before the 2nd respondent-Forum, the petitioner-Bank has filed the present writ petition and there are no grounds to interfere with the same.

6. Heard learned counsel for the parties and perused the instructions issued by the Government of Andhra Pradesh in the letter dated 14.05.2014.

7 . As 02.06.2014 is the notified date for formation of the new

State of Telangana, pursuant to the Andhra Pradesh Reorganisation Act, 2014, it appears that the Government of Andhra Pradesh has issued a letter dated 14.05.2014 to the Chief General Manager of the petitioner-Bank to issue instructions to all its Branches not to honour the cheques issued on or before 31.05.2014 by the existing State of Andhra Pradesh after 02.06.2014.

8. It is not in dispute that the State of Telangana is formed with effect from 02.06.2014, which is the notified date. Therefore, the cheque dated 10.06.2014 is covered by the letter dated 14.05.2014 issued by Government of Andhra Pradesh. In that view of the matter, as a fresh cheque is to be issued, we are of the view that it is not a case of 'deficiency of service' as alleged by the 3rd respondent in C.C.No.222 of 2014.

9. In view of the above, we deem it appropriate to dispose of the writ petition by setting aside the exparte order dated 06.04.2015 and quash the proceedings in C.C.No.222 of 2014 on the file of the 2nd respondent-District Consumer Disputes Redressal Forum, Karimnagar, and the 3rd respondent is permitted to return the cheque bearing No.013813 for Rs.1,11,036/- to the 2nd respondent-Forum and on such return, the 2nd respondent-Forum is directed to issue a fresh cheque for the said sum in favour of the 3rd respondent.

10. Subject to the above directions, this writ petition is allowed, 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

04.112015.

Msr

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