

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 309 OF 2016

Abhay s/o Narayan Raje,
Age: 69 years, Occu: Social Service,
R/o. New Area Ward, Near Brahman Sangh,
Bhusawal, Tq. Bhusawal,
Dist. Jalgaon

..PETITIONER

VERSUS

Madhukar Arjun Tayade,
Age: 70 years, Occu: Service,
R/o. Plot No. 12B,
Near Gujral Petrol Pump,
Jalgaon, Tq. and Dist. Jalgaon

..RESPONDENT

Mr Rajendra S. Deshmukh, Advocate for petitioner

CORAM : N.W. SAMBRE, J.

DATE : 30th March, 2016

ORDER :

The petitioner – opposite party no.3, namely, Abhay Narayan Raje, Chairman of Kala Hanuman Urban Co-operative Society Ltd. has suffered an order at the behest of the Consumer Disputes Redressal Forum, Jalgaon, in Complaint No.280 of 2010 on 26th September, 2011, which has attained finality, as the same was not subjected to challenge by him.

2. Pursuant thereto, the complainant has now initiated proceedings under section 27 (2) of the Consumers Protection Act and the Rules framed thereunder for execution, which are questioned by the petitioner in the instant petition, seeking invocation of provisions of section 482 of the Code of Criminal Procedure and Article 227 of the Constitution of India.

(2)

3. The submission of the petitioner is, in view of the law laid down by Aurangabad Bench of the Bombay High Court in Writ Petition No.1391 of 2009 and other connected matters, decided on 22nd December, 2010, no liability could be fastened on the petitioner, particularly under the provisions of the Consumers Protection Act. In addition, he has placed reliance upon the judgment of this Court in the matter of Usha vs. State, rendered in Writ Petition No.11067 of 2010, decided on 21st February, 2011, wherein this Court has taken a view that liability cannot be fastened upon individual directors of the society. He would submit that though the status of the petitioner is shown to be Chairman of the society, still the same was by virtue of he being director of the society and as such sought quashing of the execution proceedings.

4. With the assistance, I have perused both the judgments cited supra and the order passed by the learned Consumer Forum saddling liability on the present petitioner.

5. The fact remains that the order of the Forum passed on 26th September, 2011, against the petitioner, pursuant to which the proceedings under section 27 of the Consumers Protection Act were initiated in 2011 itself, was not questioned before any of the authorities till date. Relying upon the judicial verdicts of the High Court in the above referred matters, the petitioner has sought support in getting the execution proceedings quashed that too after period of four years from the date of

(3)

order of the Consumer Forum allowing the complaint and initiation of the proceedings under section 27 of the Consumers Protection Act.

6. In my opinion, the same is not permissible unless the order of the Forum is upset in an appropriate proceedings. The fact remains that the order of the Forum in favour of respondent still holds the field. In case if the petition is entertained, same will be rendered redundant.

7. In view thereof, no case for interference is made out. Criminal Writ Petition fails and stands rejected.

(N.W. SAMBRE, J.)

amj