

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2016

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 823 of 2011
and
M.P. No. 1 of 2011

The Managing Director
Tamilnadu State Transport
Corporation Ltd.,
Mettupalayam Road
Coimbatore – 643 001.

.. Petitioner

Vs

1. District Consumer Disputes
Redressal Forum
Collectorate Complex
Coimbatore – 18.

2. Mr. K. Muthu Vijayan

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order passed in C.M.P. No.240 of 2010 in C.C. No. 424 of 2009 dated 13.12.2010 and consequently reject the petition filed by the respondent in C.C. No. 424 of 2009 on the file of the District Consumer Disputes Redressal Forum, Coimbatore.

For Petitioner : Mr. T. Chandrasekaran

For Respondents : Mr. P.M. Duraiswamy for R2

ORDER

This Civil Revision Petition is filed under Article 227 of the Constitution of India, by the petitioner Corporation challenging the order passed in C.M.P. No.240 of 2010 in C.C. No. 424 of 2009 dated 13.12.2010 on the file of the District Consumer Disputes Redressal Forum, Coimbatore.

2. The second respondent filed a complaint in C.C. No. 424 of 2009 before the first respondent, praying to direct the State Transport Corporation, Coimbatore and the Bus Owners Association, Coimbatore, who are the 3rd and 4th respondents therein, to pay the excessive fare of Rs.50/-, collected from the complainant and also grant the other reliefs. The Revision petitioner filed his written version before the District Consumer Disputes Redressal Forum, Coimbatore. In paragraph 3 of the said written version, the Revision petitioner has specifically raised the ground that the complaint filed by the second respondent is not maintainable and therefore the complaint has to be rejected *in limini* with cost under Section 26 of the Consumer Protection Act, 1986, as the complaint is a vexatious one. Thereafter, the Revision petitioner herein filed C.M.P. No.240 of 2010 in C. C.

No.424 of 2009 praying the Forum to decide the preliminary issue with regard to its jurisdiction in entertaining the complaint. By order dated 13.12.2010, the learned District Consumer Disputes Redressal Forum, dismissed the C.M.P. No. 240 of 2010 in C.C. No. 424 of 2009, observing that the questions raised by the petitioner Transport Corporation can be decided, after the parties let in their evidence, as per the provisions of the Consumer Protection Act, 1986. Aggrieved by the said order, the Revision Petitioner is before this Court.

3. Learned counsel for the respondent objected the revision contending that the District Forum is right in dismissing the petition, for the reason that the Revision petitioner has filed the written statement and thereafter has raised the plea of preliminary objection and therefore the Civil Miscellaneous Petition filed by the Revision petitioner is not maintainable.

4. Heard Mr. T. Chandrasekaran, learned counsel for the Revision Petitioner and Mr. P.M. Duraiswamy, learned counsel for the second respondent.

5. It is found from the records that the Revision petitioner

has filed C.M.P. No. 240 of 2010 in C.C. NO. 424 of 2009, to decide the preliminary issue with regard to the jurisdiction of the District Consumer Disputes Redressal Forum, in entertaining the complaint. The District Forum has rejected the petition stating that the said preliminary issue would be decided after hearing the evidences. Therefore, this Court is of the view that the District Forum is not right in coming to the conclusion that the preliminary issue with regard to its jurisdiction in entertaining the complaint, would be decided at the time of final hearing. According to the petitioner, the complaint filed by the respondent does not come under the purview of Consumer Court. Hence, the preliminary issue raised by the petitioner is with respect to jurisdiction of the consumer court to entertain the complaint. Therefore, the Consumer Court has to decide the preliminary issue of jurisdiction, first. Hence, the order passed by the Consumer Court is unsustainable in law and the same is liable to be set aside.

6. In the light of the above discussion and considering the facts of the case, this Court is inclined to pass the following orders:-

- a) The impugned order passed in C.M.P. No.240 of 2010 in C.C. No. 424 of 2009 dated 13.12.2010 by the District Consumer Disputes Redressal Forum,

Coimbatore, is hereby set aside;

- b) The District Consumer Disputes Redressal Forum, Coimbatore is directed to decide the preliminary issue raised in the C.M.P. No.240 of 2010 in C.C. No. 424 of 2009, in accordance with law, within a period of four weeks from the date of receipt of a copy of the order.

7. In view of the above, the above Civil Revision Petition is allowed. Consequently, the connected M.P is closed. No order as to costs.

20.04.2016

Index: Yes/No
Internet : Yes/No

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To

The District Consumer Disputes
Redressal Forum, Coimbatore.

D. KRISHNAKUMAR J.

avr

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