

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 57 of 2017**

- Chhattisgarh State Power Distribution Company Limited Through Junior Engineer, Distribution Centre Kotmi, District Janjgir Champa (Chhattisgarh)

---- Petitioner**Versus**

1. Chhattisgarh State Consumer Disputes Redressal Commission, Raipur Through The Registrar, Devendra Nagar, Raipur (Chhattisgarh)
2. District Consumer Disputes Redressal Forum, Janjgir Champa, Through Its President, Janjgir Champa, Chhattisgarh.
3. Mukesh Kumar Satmani, S/o Shyam Lal Satnami, Aged About 30 Years R/o Village Karrapali, P S And Post Malkharoda, District Janjgir Champa (Chhattisgarh)
4. Ku. Khushi Satnami (Minor) Aged About 9 Years Through Natural Guardian Father Mukesh Kumar Satnami, R/o Village Karrapali, P S And Post Malkharoda, District Janjgir Champa (Chhattisgarh)
5. Ku. Muskan Satnami (Minor) Aged About 2 Years Through Natural Guardian Father Mukesh Kumar Satnami, R/o Village Karrapali, P S And Post Malkharoda, District Janjgir Champa (Chhattisgarh)

---- Respondents

For Petitioner

Mr. Varun Sharma, Advocate

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****17.01.2017**

1. The Writ Petition has been filed seeking for quashment of order dated 30.12.2016 passed in Execution Case No. 18/2016 Annexure P/1 pending before Respondent No.2. Alternatively, it has also been prayed that the appeal which is pending before Respondent No.1 be decided at the earliest.

2. A brief fact of the case is that the District Consumer Forum, Janjgir-Champa / Respondent No.2 has passed an order granting award of compensation of Rs. 5.58 lakh against the present Petitioner payable to Respondents No. 3 to 5, complainants. Against the said order of the District Forum the Petitioner had preferred an appeal before Respondent No.1 where the appeal has been registered as Appeal No. FA 16/466. Along with the appeal an application for interim relief was also filed. Respondent No.1 the Appellate Body while considering the case for interim relief took a stand that the matter itself may be finally decided and accordingly posted the case for final hearing on couple of the dates and the next date of hearing is 15.02.2017. Meanwhile, Respondents No.3 to 5 moved application for execution of the original award under Section 27 of the Consumer Protection Act. The Petitioner had immediately filed application under Order 21 Rule 26 CPC. The Court below vide its order dated 30.12.2016 has rejected the application filed by the Petitioner under Order 21 Rule 26 CPC seeking for keeping the execution proceeding in abeyance in the light of the pending appeal. Rejecting the application the Court below fixed the matter for 17.01.2017 for honouring the order of the forum or else coercive method to be initiated by the forum for the execution of the order.
3. Learned Counsel for the Petitioner submit that after the order dated 30.12.2016 was passed, he had been making efforts before Respondent No.1 to get the appeal be listed on an early date for consideration of the application for grant of interim relief in the light of order dated 30.12.2016. However, the Registrar of Respondent No.1 body has refused to grant permission to make a request to the

Appellate body and has even torn the application which he has initially received so as to destroy the acknowledgment of receipt and refused to accept the application for the simple reason that on an earlier occasion on their application for urgent hearing the matter got adjourned. This attitude of the Registrar if what has been stated by the Petitioner is believed to be true then it is definitely not appreciable.

4. It is expected that the Respondent No.1 shall look in the said conduct of the Registrar and take appropriate remedial steps on administrative side.
5. Further so far as merits of the case is concerned since the appeal as has been prescribed under the Act has been filed by the Petitioner and the appeal also being entertained by the Appellate forum, the appeal should not get rendered infructuous in the course of the original order itself being executed. Learned Counsel for the Petitioner further submits that the Appellate forum having found merits in the appeal had admitted the case and the same has been ordered to be listed for final hearing and also taken up the matter on more than a couple of the occasions for hearing and the next date has been fixed for 15.02.2017.
6. In the opinion of this Court when the Appellate Court has fixed the matter on merits for 15.02.2017, there is no reason why the District Forum could not have waited till 15.02.2017 for the execution of the original order.
7. It is also pertinent to take note of the fact that Respondent No.1, the Appellate Forum has not rejected the application for stay which was filed along with the appeal and the same is also pending consideration. In the process if any coercive step is initiated for execution of the decree, the appeal itself may become futile and can render infructuous.

8. The Right to Appeal is a matter of right for any aggrieved person. Whenever an order which is appealable under the Statute, and if the aggrieved person has availed the said remedy of appeal, there is no reason to believe that the appeal is not being bonafidely pursued.
9. Thus, in the opinion of this Court ends of justice would meet if the impugned order dated 30.12.2016, Annexure P/1 is stayed for the moment with the aid of direction that the Petitioner shall approach the Appellate Forum on 18.01.2017 when Respondent No.1 is having its link sitting at Bilaspur and request Respondent No.1, the Appellate Forum to consider the application for interim relief insisting for an early date than what has already been fixed particularly keeping in view the order dated 30.12.2016 passed by Respondent No.2, the District Forum.
10. It is observed that till the Interim Application or the Appeal which ever is decided first the effect and operation of the impugned order dated 30.12.2016 shall remain stayed.
11. With the aforesaid direction the present Petition stands disposed off.

**Sd/-
(P. Sam Koshy)
JUDGE**