

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.6 of 2016 (O&M)
Date of decision: October 25, 2017

R.K. Aggarwal and others

...Petitioners

Versus

State Consumer Disputes Redressal
Commission, UT, Chandigarh & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Kanwaljit Singh, Senior Advocate with
Mr. Ajayvir Singh, Advocate for the petitioners.
Ms. Deepali Puri, Advocate for respondent No.3.
None for respondents No.5 to 9.

Rajan Gupta, J.

Petitioners have prayed for a writ in the nature of certiorari for quashing impugned order/notice dated 24.9.2015, whereby residential house of the petitioner has been attached.

It has been urged before the court that the orders Annexures P-3 and P-4 issued by Kanungo Recovery, are unsustainable being without application of mind. Same deserve to be set-aside.

It appears, petitioners are Directors of M/s Shalimar Estates (P) Ltd. The company planned to construct a Mall in Mohali. For this purpose, advertisement was issued in the news paper. The project, however, ran into rough weather. Consumers, who had invested money, filed complaints before the State Consumer Disputes Redressal Commission, Chandigarh. The Commission after considering the entire issue partly allowed the claim. On non-compliance of its order, it initiated action under Section 27 of the

Act. Petitioners R.K. Aggarwal and Kamlesh Aggarwal were directed to undergo a simple imprisonment for a period of two years and to pay a fine of Rs.10,000/- each, in default to undergo further imprisonment of six months. The Kanungo Recovery also initiated necessary proceedings for attachment of the property. Aggrieved, petitioners filed instant writ petition before this court.

Stand of respondents before this court is that petitioners have effective remedy of statutory appeal before the National Consumer Redressal Commission. Thus, present proceedings in writ jurisdiction are not sustainable. Reliance has also been placed on judgment in ***Om Parkash Saini Vs. DCM Limited and others, 2010 (3) RCR (Civil) 582*** and ***Cicily Kallarackal Vs. Vehicle Factory, 2012 (4) R.C.R. (Civil) 901***.

I find merit in the preliminary objections raised by the respondents. It is not clear why petitioners have invoked the writ jurisdiction of this court despite remedy of statutory appeal available to them. The proceedings by the revenue authorities are only consequential to the orders passed by the State Commission. Same cannot be termed as arbitrary or without authority of law. The ratio of judgments in *Om Parkash Saini's case (supra)* and *Cicily Kallarackal's case (supra)* is applicable to the facts of the present case. The petition is, thus, misconceived and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

October 25, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No