

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2018

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.12813 of 2005

G.Subramanian

... Petitioner

Vs

1.The Registrar,

The State Consumer Disputes
Redressal Commission,
Mylapore, Chennai - 600 004.

2.The Commissioner,

Greater Chennai,
Egmore, Chennai - 600 008.

3.A.Devanesan

4.G.N.Dorai

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the second respondent to execute the Non-Bailable Warrant issued by the first respondent against the respondents 3 and 4 in E.P.No.34 of 1999 in E.P.No.56 of 1999 in O.P.No.327 of 1993 dated 18.12.2001.

For Petitioner : Mr.E.M.K.Yaswanth Rao

For Respondents : Mr.G.B.Rajesh
Government Advocate for R1

: Mr.V.C.Selvasekaran for R2

: RR 3 & 4
(dismissed vide Court order
dt.21.08.2012)

O R D E R

The relief sought for in the present writ petition is a direction to direct the 2nd respondent to execute the Non-Bailable Warrant, issued by the 1st respondent, against the respondents 3 and 4, in E.P.No.34 of 1999 in E.P.No.56 of 1994 in O.P.No.327 of 1993, dated 18.12.2001.

2.The learned counsel appearing for the writ petitioner states that he and his wife were the complainants in O.P.No.327 of 1993, before the State Consumer Disputes Redressal Commission (for brevity ''State Commission''), in which, the State Commission passed an order, directing the respondents 3 and 4, to pay a sum of Rs.1,85,153/- with interest thereon at 16% p.a. from the date of receipt of the money from the Acquisition Officer till payment, and also to pay a sum of Rs.50,000/- as compensation and a sum of Rs.3,000/- as costs to the complainants therein.

3.The respondents 3 and 4 preferred an appeal before the National Consumer Disputes Redressal Commission, New Delhi, and the said National Consumer Forum, by order, dated 06.05.1999, in the first Appeal No.487 of 1994, had modified the order of the State Commission and vacated the direction issued to the respondents 3 and 4 herein, for payment of Rs.50,000/- as compensation, however, the said National Consumer Forum confirmed the remaining portion of the award of the State Commission.

4.However, the 3rd and 4th respondents had failed to comply with the orders, passed by the State Commission and the National Consumer Disputes Redressal Commission. Hence, the writ petitioner preferred E.P.No.43 of 1999 in O.P.No.327 of 1993 to execute the order passed in O.P.No.327 of 1993.

5.The grievances of the writ petitioner is that, the State Commission passed an order on 18.12.2001 and issued Non-Bailable Warrant for the arrest of the opposite parties under Section 27 of the Consumer Protection Act, 1986. However, the said Non-Bailable Warrant had not been executed by the Commissioner of Police. Thus, the writ petitioner is constrained to move the present writ petition.

6.When the Act itself is comprehensive in nature and provides the procedure for execution of its own orders, the question of entertaining this writ petition, more specifically, in respect of the interim order, granting Non- Bailable Warrant does arise at all. The E.P. is pending before the State Commission and Section 27 of Consumer Protection Act, 1986, provides penalties in the event of any non-compliance. Hence, the petitioner has to approach the said Commission for further orders or for execution of any order, passed by the Commission. Contrarily, he cannot move a writ petition under Article 226 of the Constitution of India for a direction to execute the Non-Bailable Warrant, issued by the State Commission. Such a course is impermissible, in view of the Consumer Protection Act, 1986, and in these circumstances, the petitioner is at liberty to approach the State Consumer Disputes Redressal Commission in

respect of execution of the order, passed by the said Commission, under the provisions of the aforesaid Act.

7. With these observations, this writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar,
The State Consumer Disputes
Redressal Commission,
Mylapore, Chennai - 600 004.

2. The Commissioner,
Greater Chennai,
Egmore, Chennai - 600 008.

+1cc to the Government Pleader, S.R.No. 85120

W.P.No.12813 of 2005

GJ(CO)
GN(07/01/2019)

सत्यमेव जयते

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