



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (NPD) (MD) No.82 of 2018

and

CMP(MD) No.352 of 2018

The Branch Manager,
Central Bank of India,
South Main Street,
Thanjavur, Thanjavur District.

..Petitioner/Petitioner/Opposite party

Vs.

S.Shenbagavalli

..Respondent/Respondent/Complainant

Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India, to direct the District Consumer Disputes Redressal Forum, Thanjavur to take the unnumbered I.A.No.--- of 2017 in C.C.No.46 of 2012 on file and dispose the same on merits.

For Petitioner : Mr.B.Rajesh Saravanan

ORDER

This civil revision petition is filed praying to direct the District Consumer Disputes Redressal Forum, Thanjavur to take the unnumbered I.A.No.--- of 2017 in C.C.No.46 of 2012 on file and dispose the same on merits.

2. The learned counsel appearing for the petitioner would submit that the respondent had filed a petition before the District Consumer Disputes Redressal Forum seeking compensation against the petitioner's bank.

3. It is contended by the petitioner Bank that the case was posted on 03.09.2014 for filing written statements of the petitioner. The written version was sent to the Counsel, which was mingled with the bundle of some other cases in the office of the Counsel. So the written version was not filed and hence ex-parte order was passed against the petitioner Bank. The Petitioner Bank did not know about the exparte order and after receiving the E.P notice, the petitioner Bank came to know about the same. Therefore, the Petitioner Bank has made a petition to

set aside the ex-parte order passed on 22.04.2015.

4. It is the case of the petitioner that the lower Court has refused to receive the said petition stating that there is no provision in the Consumer Protection Act 1986, for which, the learned Counsel for the petitioner has relied on the judgment reported in **1996 (II) CTC 84** in The Manager, Indian Bank, High Court Extn. Counter, Madras 104 and four others Vs. District Consumer Disputes Redressal Forum, Madras and another [CRP.No.1140 of 1991, decided on 28.06.1996], wherein, it is observed in paragraph Nos.9 and 10, as follows:

"9. When the Consumer Protection Forum has got the power to decide a complaint ex parte under Rules 8(8) and 8(9) of the Rules, it automatically implies that it has got power to set aside an ex parte order. The District Consumer Forum and the State Consumer Forum have got powers to entertain the applications to set aside ex parte orders and decide the same on merits. It is also settled law that when there is error in exercise of jurisdiction this Court can always come in by exercising the power under Article 227 of the Constitution. As rightly pointed out by the learned counsel for the petitioners, and fairly conceded by Mr. D.I.J. Rajkumar, though there is no express provision in the Act or the Rules framed thereunder giving the Forum jurisdiction to do so, it is well known rule of statutory construction that the Forum should be considered to be endowed with such ancillary or incidental powers as are necessary to discharge its functions for the purpose of rendering justice between the parties.

10. In a case of this nature, I am of the view, that the Forum should be considered as possessed with such ancillary or incidental powers unless there is any indication in the statute to the contrary. I do not find any statutory prohibition in the Act or the Rules made thereunder. In view of the above, I allow the civil revision petition and direct the petitioners to represent the papers, which had already been returned by the Forum, within four weeks from today. The Forum is directed to take the petition on file and decide it on merits after affording opportunity to both parties. The Forum is further directed to dispose of the said petition, to be represented by the petitioners, within four weeks thereafter. I make no order as to costs."

5. A perusal of records would show that the above case <https://hcservices.rechtspraak.nl/hcservices> is related to the present case on hand. Therefore, in my considered opinion, the Forum should be considered to be endowed with such ancillary or incidental powers as are necessary to



discharge its functions for the purpose of rendering justice between the parties.

6. In the result, this civil revision petition is allowed. The petitioners are directed to represent the papers, which had already been returned by the Forum, within a period of four weeks from the date of receipt of a copy of this order. The Forum is directed to take the petition on file and decide it on merits after affording opportunity to both parties. The Forum is further directed to dispose of the said petition, to be represented by the petitioners, within four weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Judge,
The District Consumer Disputes Redressal Forum,
Thanjavur.

+ 1 cc TO Mr.B.Rajesh Saravanan , Advocate in SR No. 43351

rm

AE/SV MMS/SAR3/16.02.2018/3P/3C

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