

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice Gudiseva Shyam Prasad

W.P.Nos.1897, 1912, 1918, 1938, 1959, 1969, 2796 & 1867 of 2010

Date: 10.08.2018

WP.No.1897/2010

Between:

M/s.Narne Estates Private Limited
Rep. by its Chairman & Managing Director
Col (Retd) N.Ranga Rao

..Petitioner

and

1.Union of India
Rep. by its Secretary,
Ministry of Consumer Affairs,
Food & Public Distribution,
New Delhi and 3 others

..Respondents

Counsel for the petitioner: Mr.V.Hariharan

**Counsel for respondent No.1: Mr.K.Lakshman,
Asst.Solicitor General**

Counsel for respondent Nos.2 & 3: AGP for Civil Supplies

Counsel for respondent No.4: None appeared

The Court made the following:

Common Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Writ Petition is filed for issue of Prohibition restraining respondent No.2- Andhra Pradesh State Consumer Disputes Redressal Commission from proceeding with the respective consumer complaints filed by respondent No.3 in WP.Nos.1867 and 2796 of 2010 and respondent No.4 in the remaining Writ Petitions.

Mr.V.Hari Haran, learned Counsel for the petitioner, submitted that the Supreme Court in **Ganeshlal vs. Shyam**¹, and also a Division Bench of this Court in **SPVL Constructions Private Limited vs. The District Consumer Disputes Redressal Forum- II**², held that in a transaction pertaining to sale and purchase of a plot, the provisions of the Consumer Protection Act, 1986, are not attracted and that therefore, the Consumer *Fora* have no jurisdiction to entertain any complaints relating thereto.

Mr.P.Giri Krishna and Smt.G.Jaya Reddy, learned Counsel appearing for respondent No.4- consumer in WP.Nos.1959 and 2796 of 2010 respectively, relied upon the judgments in **Bangalore Development Authority vs. Syndicate Bank**³ and **Narne**

¹ (2014) 14 SCC 773

² WP.No.31427 of 2014, dated 14-06-2018

³ (2007) 6 SCC 711

Constructions Private Limited vs. The Union of India (UOI)⁴

and submitted that the judgment of the Supreme Court in **Bangalore Development Authority vs. Syndicate Bank** (3 supra) was not referred in **Ganeshlal vs. Shyam** (1 supra); that in **Bangalore Development Authority vs. Syndicate Bank** (3 supra), the Supreme Court has referred to and relied upon various previous judgments *viz.*, **Lucknow Development Authority vs. M.K.Gupta**⁵, **Ghaziabad Development Authority vs. Balbir Singh**⁶, **HUDA vs. Darsh Kumar**⁷ and **Gaziabad Development Authority vs. Union of India**⁸, based on which various legal principles were laid down; and that therefore, the judgment in **Ganeshlal vs. Shyam** (1 supra) cannot be said to be laying down the precedent.

A Writ of Prohibition is issued where a *Forum* suffers from inherent lack of jurisdiction to entertain a dispute. Though the petitioner raised such a plea, in view of the various judgments of the Supreme Court referred to above, the question of jurisdiction of respondent No.2 to entertain the complaints filed by respondent No.3 in WP.Nos.1867 and 2796 of 2010 and respondent No.4 in the remaining Writ Petitions needs to be adjudicated based on the

⁴ MANU/AP/0641/2010

⁵ (1994) 1 SCC 243

⁶ (2004) 5 SCC 65

⁷ (2005) 9 SCC 449

⁸ (2000) 6 SCC 113

various legal principles deducible from the abovementioned judgments. Therefore, in our opinion, these are not fit cases, which could be adjudicated by this Court, for the purpose of issuing Writ of Prohibition.

The Writ Petitions are, therefore, dismissed, however, permitting the petitioner to raise the issue of lack of jurisdiction to entertain the consumer complaints before respondent No.2. In such an event, respondent No.3 in WP.Nos.1867 and 2796 of 2010 and respondent No.4 in the remaining cases are entitled to raise all legally permissible defences before respondent No.2. Respondent No.2 shall thereupon dispose of the said complaints both on the issue of jurisdiction as well as on merits.

As a sequel to dismissal of these Writ Petitions, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad, J)

Dt: 10th August, 2018

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