

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WP.No.30234 of 2017

Date:08.06.2018

Between.

M/s Raghavendra Associates,
A sole Proprietorship firm, repled by its
Proprietor-Ravindra Gopal and another.

....Petitioners

And.

The District Consumer Disputes Redressal
Forum-I Hyderabad repled by its President
and another.

.....Respondents

Counsel for the petitioners: Mr. Vupputuri Appa Rao

Counsel for respondent No.1: GP for Civil Supplies (TS)

Counsel for respondent No.2: Mr. T.C.Krishnan

The Court made the following:

ORDER: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

Feeling aggrieved by order, dated 22.8.2017, passed by respondent No.1 in EAIA.No.308 of 2015 in EA.No.37 of 2015 in CC.No.711 of 2011, the respondents in the said CC filed this Writ Petition.

We have heard Mr. Vupputuri Appa Rao, learned counsel for the petitioners and Mr. T.C.Krishnan, learned counsel for respondent No.2.

Respondent No.2 has raised a consumer dispute, vide CC.No.711 of 2011, before respondent No.1, wherein a final order adverse to the interests of the petitioners was passed. Feeling aggrieved by the same, the petitioners filed FA.No.82 of 2015 before the State Consumer Disputes Redressal Commission (for short 'the Commission'). While the said appeal is pending, respondent No.2 has filed an application (EA.No.37 of 2015) under Section-27 of the Consumer Protection Act, 1986 (for short 'the Act') for imposing penalty on the petitioners for the alleged non-compliance of the order of respondent No.1. The petitioners have filed EAIA.No.308 of 2015 seeking rejection of EA.No.37 of 2015 on the ground that as the appeal filed by the petitioners is pending before the Commission, respondent No.1 is denuded of the jurisdiction to proceed with EA.No.37 of 2015 filed by respondent No.2 under Section-27 of the Act. The said

application having been dismissed by respondent No.1, the petitioners filed the present Writ Petition.

At the hearing, learned counsel for the petitioners has placed reliance on the judgment of a Full Bench of this Court in *Dr. C.V.Ratnam and Others Vs. Union of India, replead by its Secretary, Medical and Family Welfare, New Delhi and Ors*¹ and of a Division Bench of this Court in *Maytas Properties Limited Vs. AP State Consumer Disputes Redressal Commission and Ors*² in support of his submission that when an appeal filed by the petitioners is pending before the Commission, respondent No.1 cannot entertain and proceed with the application filed by respondent No.2 under Section-27 of the Act.

Though the Full Bench judgment in *Dr. C.V.Ratnam* (1 supra) pertains to the constitutional validity of Section-27 of the Act, in paragraph No.43 thereof, the Full Bench observed as under:

“Section-27 should not be read in isolation. It should be read in conjunction with Section-25. The provisions of Section-25 or for that matter Section-27 can be taken recourse to only when the order becomes final. As noticed hereinbefore, against the order of District Forum at least two appeals have been provided for, whereas against the orders of the State Commission and the National Commission one appeal is provided.”

¹ 2001 (5) ALT 610 (FB)

² AIR 2013 AP 93

A Division Bench of this Court in *Maytas Properties* (2 supra), upon considering the Full Bench judgment of this Court in *Dr. C.V.Ratnam* (1 supra) and on interpretation of the provisions of Sections-24 and 27 of the Act, held as under: -

“On a plain reading of Section 27 of the Act, it is clear that it is penal in nature and is intended to empower the District Forum or the State/National Commission to punish not only the opposite party but also the complainant if it comes to the conclusion that the action on the part of the defaulter is dishonest and intentional. As explained in Vishwabarathi House Building Co-Op Society’s case (supra) and also in C.V.Ratnam’s case (supra). Section 27 is akin to Order-XXXIX Rule-24 of CPC or the provisions of the Contempt of Courts Act or Section-51 read with Order-XXI Rule-27 of CPC. It is no doubt true that the object of the Act is to provide speedy and simple redressal to consumer disputes and the procedure to be followed for settlement of consumer disputes is summary in nature. However, having regard to the fact that Section-27 is a penal provision under which non-compliance of the order of the District forum or the State/National Commission would be punishable by way of imprisonment or fine, we are of the opinion that Section-27 cannot be equated with the other provisions of the Act providing for settlement of consumer disputes by the District Forum and State/National Commission. Therefore, the penal proceedings under Section-27 cannot be allowed to be taken recourse to even before the order of the District Forum or State/National Commission attains finality merely on the ground that the Act provides for speedy and simple redressal to consumer

disputes, in fact, the language of Section-24 of the Act is plain and unambiguous and makes it clear that the order of a District Forum or State/National Commission shall be final only if no appeal has been preferred against such order. The law is well settled that the language employed in a statute is the determinative factor of legislative intent. Therefore, as held by the Full Bench in C.V.Ratnam's case (supra) Section-27 can be taken recourse to only by way of last resort after the order attains finality as provided under Section-24 of the Act."

Mr. T.C.Krishnana, learned counsel for respondent No.2, fairly has not disputed the fact that the said plea of the petitioners stand supported by the afore-mentioned two judgments.

In the light of the legal position as explained above, the Writ Petition is allowed and the impugned order passed by respondent No.1-Forum dismissing EAIA.No.308 of 2015 filed by the petitioners is, accordingly, set aside. Respondent No.1 is restrained from proceeding with EA.No.37 of 2015 till disposal of the appeal-FA.No.82 of 2015 before the Commission. Needless to observe that respondent No.1 may proceed with E.A.No.37 of 2015 only after the disposal of FA.No.82 of 2015 depending upon its outcome.

As a sequel to disposal of the Writ Petition, WPMP.No.37676 of 2017 and WVMP.No.5156 of 2017 are disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE U.DURGA PRASAD RAO

08th June, 2018

DR

