

HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

WRIT PETITION No.11254 of 2011

Date: 16.08.2018

Between :

The Public Information Officer,
(Right to Information Act),
Assistant Director of Survey and
Land Records Office, Vizianagaram.

... Petitioner

And

Chukka Rama Krishna and another.

... Respondents

COUNSEL FOR PETITIONER : G.P. for Revenue (A.P.)

COUNSEL FOR RESPONDENTS : G.P. for Civil Supplies

THE COURT MADE THE FOLLOWING:

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

This writ petition is filed for Certiorari to quash the order dated 11.03.2011 in C.C.No.119 of 2010 on the file of the District Consumer Disputes Redressal Forum, Vizianagaram (for short "the District Forum").

Though notice is served on respondent No.1, he has not entered appearance. We have heard the learned Government Pleader for Revenue (A.P.) and perused the record.

Respondent No.1 has approached the Public Information Officer/Assistant Director of Survey and Land Records, Vizianagaram, seeking to furnish Field Measurement Books of all villages in Jammi Mandal, Vizianagaram District, loaded in CDs through scanning. The Public Information Officer informed respondent No.1 that the information sought for will be sent in accordance with the orders of the Commissioner of Survey, Settlement and Land Records. Feeling aggrieved by the said order, respondent No.1 has approached the appellate Authority/Regional Deputy Director, Multi Zone-I, Survey and Land Records, Kakinada, East Godavari District. As respondent No.1 has not attended the personal hearing of the appellate Authority and also as the Field Measurement Books are not transferred to CDs so far, the required information will not be furnished. Feeling aggrieved by the

said order, respondent No.1 has filed a Second Appeal before the A.P. Information Commission, Hyderabad. By order dated 21.10.2009, the A.P. Information Commission has rejected the said appeal on merits by confirming the orders of the Primary and First Appellate Authority. Instead of questioning those orders, respondent No.1 has approached the District Forum by filing C.C.No.119 of 2010. By order dated 11.03.2011, the District Forum allowed the said complaint and awarded compensation of Rs.7,500/- to be borne personally from the income of the Public Information Officer/Assistant Director of Survey and Land Records. The said order is assailed in this writ petition.

In our opinion, the impugned order is wholly without jurisdiction as respondent No.1 does not fall within the definition of 'Consumer' under Section 2(1)(d) of the Consumer Protection Act, 1986 (for brevity "the Act"), as it is not his pleaded case that either he bought goods or availed the services of the petitioner for hire or reward. The District Forum ignored this fundamental position in law and allowed the complaint. Further-more, the District Forum ought to have rejected the complaint in *limini* for the reason that respondent No.1 has availed the hierarchical remedies under the Right to Information Act and remained unsuccessful with the rejection of his application and dismissal of appeals by the first and second appellate authorities under the Right to Information

Act. When all these orders are staring at his face, he is not entitled to avail another remedy under the Consumer Protection Act. No doubt, as per Section 3 of the Act, the remedy under the Consumer Protection Act is in addition to and not in derogation of any other remedy. However, the said provision applies, if a person, who falls within the definition of 'Consumer', opts to avail the remedy under the Consumer Protection Act without availing any other remedy available to him under other Laws. In the instant case, as noted hereinbefore, respondent No.1 has not only availed the remedies under the Right to Information Act, but also he was unsuccessful. Therefore, the District Forum has completely glossed over this aspect and erroneously allowed the complaint.

For the aforementioned reasons, the impugned order dated 11.03.2011 in C.C.No.119 of 2010 is quashed and the writ petition is accordingly allowed. No order as to costs.

As a sequel to the allowing of the writ petition, WPMP.No.13789 of 2011 shall stand disposed of accordingly.

C.V. NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

16.08.2018.
Msr

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