

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD
W.P.No.31436 of 2015

Date: 19.07.2018

Between:

The Manager,
Life Insurance Corporation of India,
Chittoor Branch, Chittoor district
and another ... Petitioners

And

The A.P. State Consumer Disputes
Redressal Commission at Hyderabad
rep. by its Registrar, Hyderabad
and another ... Respondents

Counsel for the Petitioners : Mr.M.Venkata Ramana Reddy

Counsel for the Respondents : Mr.Virupaksha Dattatreya
Gowda for R2.

A.G.P. for Civil Supplies for
R1

The Court made the following:

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

Feeling aggrieved by order dated 17.07.2015 in F.A.No.493 of 2014 on the file of respondent No.1 – Commission, the appellants therein filed this writ petition.

2. We have heard Mr.M.Venkata Ramana Reddy, learned counsel for the petitioners and Mr.Virupaksha Dattatreya Gowda, learned counsel for respondent No.2.

3. Respondent No.2 has filed C.C.No.15 of 2013 before District Consumer Forum No.I, Chittoor, against the petitioner, claiming money under Insurance policy. By its order dated 14.03.2014, the Forum has directed the petitioners to pay a sum of Rs.2,50,000/- being 50% of the policy amount towards Medical benefits, Rs.5000/- towards deficiency in service and Rs.5000/- towards costs. Assailing the said order, the petitioners have filed the aforementioned F.A. before respondent No.1. The said F.A. was dismissed for non-prosecution. While doing so, respondent No.1 has assigned the following reasons:

“The appellants have not been showing interest in prosecuting the appeal. On 21.04.2015, the matter was adjourned to 11.06.2015 at the request of the learned counsel appearing for the appellants. However, the matter was adjourned to 08.07.2015. Even on that day, none appeared for the appellants, though counsel for the respondent was present. Therefore, the matter was directed to be listed under the caption of dismissal to today i.e. 17.07.2015. Even today though counsel for the respondent is present, none appears for the appellants and there is no representation on their behalf”.

4. The learned counsel for the petitioners invited our attention to averments in paragraph 6 of the affidavit filed in support of this writ petition, which read as under:

“I submit that, subsequent to compliance of the orders the Counsel appearing in the Appeal before Hon’ble Commission was appointed as Government Pleader in the Hon’ble High Court of Hyderabad. Therefore, on his representation the case was adjourned to 11.06.2015 from 21.04.2015. Subsequently, the counsel has entrusted the case to one of his colleagues Mr.T.Sai Swaroop, Junior Advocate, who was not appeared in the case on 11.06.2015 and it was adjourned to 08.07.2015 from there 17.07.2015 under the caption ‘dismissal’. It is further submitted that on 17.07.2015 also the junior counsel not represented the case and the Hon’ble Commission was dismissed the case default as there was no representation in the case. It is further submitted that as the counsel appeared in the appeal, was appointed as Government Pleader, he could not attend the Commission after 11.06.2015. The counsel entrusted the case to one of his colleague junior who was not represented the case as a result it was dismissed for default. In fact, the Corporation has taken steps to hand over the cases entrusted to the earlier counsel, to another panel advocate, in the meanwhile, the appeal filed in F.A.No.493 of 2014 was dismissed for non-prosecution”.

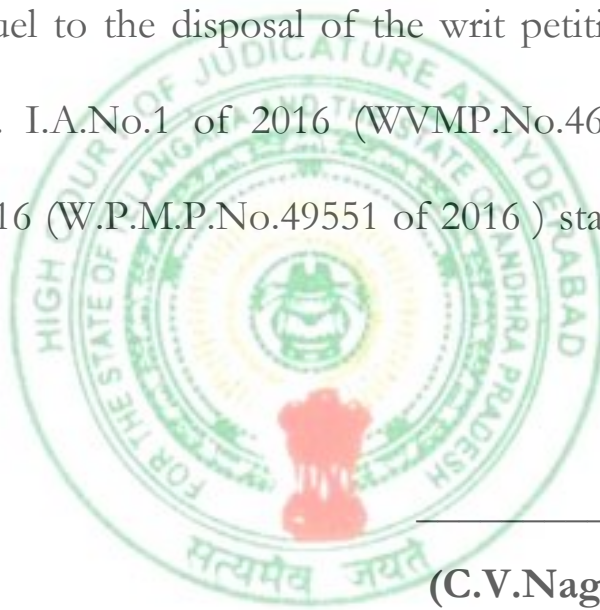
5. Even if we construe the above reproduced averments in the most liberal sense, we do not find any explanation worthy of acceptance. Appointment of the petitioners’ counsel as Government Pleader and non-appearance of the junior counsel, do not constitute a reasonable ground for non-appearance of the counsel on as many as four occasions. The petitioners having known well that their counsel was appointed as Government Pleader, ought to have made alternative arrangements within a reasonable time. From 21.04.2015 till 17.07.2015, no such arrangements were made by the petitioners.

Interestingly, the same counsel who appeared in the appeal before respondent No.1, has also filed this writ petition and argued the case. This being so, we do not find any reason as to why the same counsel or his junior, has not appeared before respondent No.1

6. For the aforementioned reasons, we do not find any error in the order of respondent No.1 – Commission.

7. The writ petition is, accordingly, dismissed.

8. As a sequel to the disposal of the writ petition, interim order stands vacated. I.A.No.1 of 2016 (WVMP.No.4675 of 2016) and I.A.No.2 of 2016 (W.P.M.P.No.49551 of 2016) stand disposed of as infructuous.



(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad,J)

Date: 19th July, 2018

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n THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

Rev.W.P.M.P.No.32955 of 2013 (I.A.No.2 of 2013)

Date: 19.07.2018

Between:

Smt.Rachna Bai W/o.Datta Singh @ Datta @ Sattar,
Aged 33 years, Occ: Housewife,
R/o.H.No.13-1-1137/A, Upper Dhoolpet,
Hyderabad.

...

Petitioner

And

The State of Telangana,
rep. by its Deputy Secretary,
General Administration
(Special Law and Order) Department,
Secretariat, Hyderabad
and two others.

... Respondents

Counsel for the Petitioner : Mr. P.Prabhakar Reddy
submitted in the Court
that he has given up
Vakalat.

Counsel for the Respondents : G.P. for Home (TS)



The Court made the following:

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

This application is filed seeking review of order dated 05.08.2013 in W.P.No.22979 of 2013.

Smt.K.Hemalatha, learned counsel for the petitioner, submitted that the order under review suffers from an error apparent on the face of the record, in that, this Court has held therein that under Section 21 of the Consumer Protection Act, 1986 (for short 'the Act') the petitioner has an effective remedy of filing a second appeal against the order of the State Consumer Disputes Redressal

Commission, dismissing the condone delay petition and consequently reviewing the appeal.

In A.P. Co-operative Housing Society Federation Limited, Hyderabad Vs. A.P. Hyderabad and others¹, the Division Bench of this Court held that under Section 21 of the Act, the party aggrieved by an order passed by the Consumer Redressal Commission, has a remedy of filing a revision under Section 21 of the Act and that the said revision is an effective alternative remedy. Interestingly, the petitioner herein itself was the petitioner in the said case decided by the Division Bench. Though in form, the order under review suffers from an error to the extent that a second appeal was held to be maintainable instead of a revision before the national Commission, in substance, the dismissal of review petition on the ground of availability of an alternative remedy derives support from the judgment in A.P. (supra).

In this view of the matter, we do not find any merit in this review petition and the same is accordingly dismissed.

As sequel to the dismissal of the review petition, I.A.No.3 of 2013 (W.P.M.P.No.32956 of 2013) is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

¹ (2015) 5 ALD 695

(Gudiseva Shyam Prasad,J)

Date: 19th July, 2018

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