

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

and

The Hon'ble Sri Justice Gudiseva Shyam Prasad

Writ Petition No.27815 of 2017

Date: 12.07.2018

Between:

Yadalam Sreeramulu

... Petitioner

and

M/s.Sai Durga Builders

Rep. by Chiluveru Kishan Prasad and 4 others

...Respondents

Counsel for the Petitioner: Mr.Raja Reddy Koneti

**Counsel for respondent Nos.1 to 3: Mr.C.Kumar
for Mr.P.Shiva Kumar**

Counsel for respondent Nos.4 & 5: AGP for Civil Supplies



The Court made the following:

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

This Writ Petition is filed for issue of a Mandamus/Certiorari to set aside Order, dated 04-12-2014, in CC.No.73 of 2012 on the file of respondent No.5- District Consumer Forum, Ranga Reddy District, as confirmed in F.A.No.726 of 2014 on the file of respondent No.4- Telangana State Consumer Dispute Redressal Commission at Hyderabad.

In response to the notice issued by this Court, respondent No.1 has filed a counter-affidavit wherein a strong objection was taken on the maintainability of the Writ Petition in view of the effective alternative remedy of revision before the National Consumer Disputes Redressal Commission under Section 21 (b) of the Consumer Protection Act, 1986 (for short 'the Act'). In support of this plea, the learned Counsel for respondent No.1 has placed heavy reliance on a judgment of the Division Bench of this Court in **A.P.Co-operative Housing Societies Federation Limited, Hyderabad vs. A.P.State Consumer Disputes Redressal Commission, Hyderabad and others**¹

¹ 2015 (5) ALD 695 (DB)

Mr.Koneti Raja Reddy, learned Counsel for the petitioner, sought to overcome this objection by stating that, ordinarily, a revision is not perceived as an effective alternative remedy and that non-suiting the petitioner on the ground of availability of alternative remedy would result in failure of justice as respondent No.1 has failed to follow the mandatory statutory provisions of the Andhra Pradesh Apartments (Promotion of Construction and Ownership) Act, 1987 (for short 'the Apartments Act').

In **A.P.Co-operative Housing Societies Federation Limited** (cited supra), a Division Bench of this Court has considered as to whether Section 21 of the Act is an effective alternative remedy or not. After analysis of the relevant provisions of the said Act and the case law, the Division Bench held that the remedy of revision available under the Act is an efficacious alternative remedy.

We do not find any reason to take any view different from the one taken by the Division Bench in **A.P.Co-operative Housing Societies Federation Limited** (cited supra).

As regards the submission of the learned Counsel for respondent No.1 that respondent No.1 has violated the provisions of the Apartments Act, as rightly submitted by the learned Counsel for the petitioner, before both the *Fora*, the petitioner had not specifically raised the said aspect. Though in the Writ Petition, for the first time, the petitioner has referred to and relied upon certain provisions of the Apartments Act, this Court, not sitting in Appeal from the orders of the District Forum and the State Commission would refrain from entertaining the said plea of the petitioner raised for the first time in the Writ Petition without having raised the same before the two *Fora* below. The jurisdiction of this Court under Article 226 of the Constitution of India being discretionary in nature, we find it inappropriate for us to entertain the pleas of the petitioner raised for the first time in this Writ Petition. If the petitioner is so advised, he is entitled to avail the remedy of revision before the National Consumer Disputes Redressal Commission in terms of the judgment of the Division Bench in **A.P.Co-operative Housing Societies Federation Limited** (cited supra).

Subject to the liberty given to the petitioner as above, the Writ Petition is dismissed without adjudicating on merits of the case.

As a sequel to dismissal of the Writ Petition, IA.No.1 of 2017 (WPMP.No.34555 of 2017) and IA.No.1 of 2018 are disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad, J)

Dt: 12th July, 2018
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