

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

WP.No.32117 of 2017

Date:21.06.2018

**Between.**

Dr. P.Satish Reddy,  
S/o P.Venugopal Reddy

....Petitioner

**And.**

The District Consumer Disputes Redressal  
Forum-III, Hyderabad and two others.

.....Respondents

Counsel for the petitioner: Mr. S.Ashok Anand Kumar

Counsel for respondent No.1: GP for Civil Supplies

Counsel for respondent Nos.2 & 3: None appeared

The Court made the following:

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

This Writ Petition is filed for a *Mandamus* to set aside order, dated 20.9.2016, in CC.No.699 of 2013, of respondent No.1-District Forum.

At the hearing, Mr. S.Ashok Anand Kumar, learned counsel for the petitioner, has not disputed that against the impugned order, his client has a remedy of appeal before the State Consumer Disputes Redressal Commission. He has, however, submitted that as the impugned order was passed in violation of principles of natural justice, in that, no notice was served on the petitioner, who was arraigned as opposite party No.3 in the said CC, he is entitled to invoke the jurisdiction of this Court.

We have summoned the original record of the case from respondent No.1. A perusal of the same would show that acknowledgment was received by respondent No.1 in proof of notice served on the petitioner.

Learned counsel for the petitioner submitted that by the time notice was sent, his client has left BBR Multi Speciality Hospital, Secunderabad-opposite party No.2 in the said CC, and that, someone in the said hospital received the notice sent in the name of the petitioner.

This is not a case of non-service of the notice at all. The issues whether the petitioner has left BBR Multi Speciality Hospital, Secunderabad, by the time notice was sent by

respondent No.1 to the address of the said hospital and whether the notice was received by the petitioner or by someone else on behalf of the petitioner at BBR Multi Speciality Hospital are questions of fact, which cannot be decided in a Writ Petition filed under Article-226 of the Constitution of India. Therefore, the Writ Petition is not an appropriate remedy for adjudication of the legality or validity of the impugned order passed by respondent No.1.

The Writ Petition is, therefore, dismissed, however, with liberty to the petitioner to avail the remedy of statutory appeal under the Consumer Protection Act, 1986, before the State Consumer Disputes Redressal Commission against the impugned order. It is needless to observe that the State Commission would take a lenient view while considering the application for condonation of delay having regard to the fact that the petitioner has pursued the remedy of the Writ Petition instead of filing appeal.

As a sequel to dismissal of the Writ Petition, interim order, dated 21.9.2017, in WPMP.No.39986 of 2017 is vacated and WPMP.No.39986 of 2017 shall stand dismissed as infructuous.

---

*JUSTICE C.V.NAGARJUNAREDDY*

---

*JUSTICE GUDISEVA SHYAM PRASAD*

*21<sup>st</sup> June, 2018*

*DR*