

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.24394 of 2008

ORDER:

There is no representation for the petitioner.

In this Writ Petition, petitioner seeks the following prayer:

“For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon’ble Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Certiorari calling for the records relating to the proceedings under Notice in C.C.No.229 of 2008 issued on 18.10.2008 of the District Consumer Forum, Prakasam District, at Ongole and quash the same as it was issued by ignoring the initial lack of jurisdiction, without considering the prima facie facts on record.”

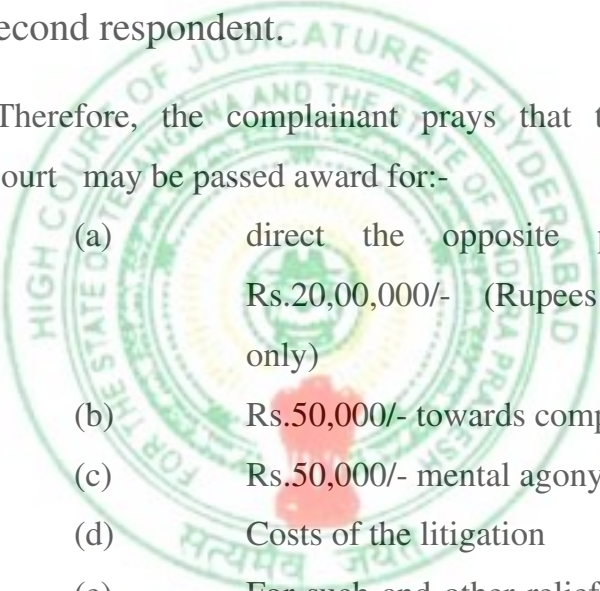
A perusal of the writ affidavit discloses that it is the specific allegation of the petitioner that the first respondent - District Consumer Forum, Prakasam at Ongole, is vested with the pecuniary jurisdiction up to Rs.20,00,000/- and not beyond, but, the second respondent had filed Consumer Case No.229 of 2008 claiming award for Rs.21,00,000/-, which is inclusive of Rs.50,000/- towards compensation and Rs.50,000/- towards mental agony.

Learned counsel for the second respondent submits that there is no requirement of filing any counter-affidavit in this matter as the facts speak for themselves. He also submits that though the petitioner’s Company should pay a sum of

Rs.21,81,900/- to him, the second respondent categorically stated in paragraph 5 of the complaint, which was numbered as Consumer Case No.229 of 2008, that he is claiming Rs.20,00,000/- only and giving up the remaining amount besides compensation and costs and thus, prays for dismissal of the Writ Petition.

Having considered the above, it is necessary to reproduce hereunder the prayer sought in Consumer Case No.229 of 2008 filed by the second respondent.

“Therefore, the complainant prays that this Hon’ble Court may be passed award for:-

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- (a) direct the opposite parties to pay Rs.20,00,000/- (Rupees Twenty lakhs only)
 - (b) Rs.50,000/- towards compensation
 - (c) Rs.50,000/- mental agony
 - (d) Costs of the litigation
 - (e) For such and other reliefs as this Hon’ble Court feel deem fit and proper due to the circumstances of the case.”

It is evident from the above that the total amount which the second respondent has claimed is Rs.20,00,000/- + Rs.50,000/- towards compensation + Rs.50,000/- towards mental agony in addition to the costs of litigation. It is to be noted that though costs of litigation that may be awarded by the District Forum,

Ongole, are not added also, the amount claimed by the second respondent is definitely exceeding Rs.20,00,000/-. In this connection, it is necessary to reproduce Section 11(1) of the Consumer (Protection) Act, 1986, hereunder:

“Jurisdiction of the District Forum.—

(1) Subject to the other provisions of this Act, the District Forum shall have jurisdiction to entertain complaints where the value of the goods or services and the compensation, if any, claimed 1[does not exceed rupees twenty lakhs].”

The aforesaid provision of law leaves no manner of doubt that the District Forum is entitled to entertain a Consumer Case provided the value of the claim does not exceed Rs.20,00,000/-, which is inclusive of value of due amount and compensation that would be awarded by the Forum. In the present case, undisputedly, the amount claimed in the Consumer Case is exceeding the limit prescribed under Section 11(1) of the Act. In view of the same, the District Forum, Ongole, lacks pecuniary jurisdiction. Therefore, the specific allegation of the petitioner that the District Forum vests with the jurisdiction up to Rs.20,00,000/- only is liable to be accepted.

At this stage, learned counsel for the second respondent states that at the stage of numbering the aforesaid Consumer Case, the same was not pointed out and thereby, requests this

Court to give an opportunity to the second respondent to seek an amendment by restricting the claim to Rs.20,00,000/-.

In view of the facts and circumstances of the case and considering the fact that this Writ Petition is of 2008 and the proceedings in the Consumer Case stand stayed all these years, the aforesaid prayer made by the learned counsel for the second respondent deserves consideration.

Accordingly, this Writ Petition is disposed of giving liberty to the second respondent to seek an amendment, if so advised, in Consumer Case No.229 of 2008 on the file of the District Forum, Ongole, restricting his claim to Rs.20,00,000/-. It is made clear that in the event any such application is filed, the District Forum shall issue notice to the petitioner so as to enable it to contest the same.

Miscellaneous Petitions, if any pending, shall stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

26th OCTOBER, 2018.

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