

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE M.GANGA RAO

WP.No.30741 of 2017

Date:07.06.2018

Between.

New India Assurance Company Limited,
reptd by its Divisional Manager,
Visakhapatnam.

.....Petitioner

And.

AP State Consumer Disputes Redressal
Commission, reptd by its President,
Hyderabad and three others.

.....Respondents

Counsel for the petitioner: Mrs. I.Maamu Vani

Counsel for respondent No.1: GP for Civil Supplies (TS)

Counsel for respondent No.2: Mr. G.Rama Gopal

Counsel for respondent Nos.3 & 4: None appeared

The Court made the following:

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

This Writ Petition is filed for issue of *Prohibition* against respondent No.1-A.P. State Consumer Disputes Redressal Commission (for short 'Commission') from proceeding with EA.No.2 of 2015 on its file to the extent it pertains to the petitioner.

Mr. G.Rama Gopal, learned counsel for respondent No.2, has not disputed the fact that the order dated 17.11.2014, of respondent No.1-Commission issuing directions to respondent Nos.3 and 4 as well the petitioner is the subject matter of appeal in FA.No.45 of 2015 before the National Consumer Disputes Redressal Commission and that the same is pending.

Mrs. I.Maamu Vani, learned counsel for the petitioner, placed reliance on the Full Bench judgment of this Court in *Dr. C.V.Ratnam and Others Vs. Union of India, replead by its Secretary, Medical and Family Welfare, New Delhi and Ors*¹ and the judgment of a Division Bench of this Court in *Maytas Properties Limited Vs. AP State Consumer Disputes Redressal Commission and Ors*² and submitted that a party cannot take recourse to Section-27 of the Consumer Protection Act, 1986 (for short 'the Act') by filing a petition under Section-27 thereof, until the order which is sought to be enforceable has attained finality under Section-24 of the Act.

¹ 2001 (5) ALT 610 (FB)

² AIR 2013 AP 93

The Full Bench judgment in *Dr. C.V.Ratnam* (1 supra) pertains to the constitutional validity of Section-27 of the Act and in paragraph No.43 thereof, the Full Bench observed as under:

“Section-27 should not be read in isolation. It should be read in conjunction with Section-25. The provisions of Section-25 or for that matter Section-27 can be taken recourse to only when the order becomes final. As noticed hereinbefore, against the order of District Forum at least two appeals have been provided for, whereas against the orders of the State Commission and the National Commission one appeal is provided.”

A Division Bench of this Court in *Maytas Properties* (2 supra), upon considering the Full Bench judgment of this Court in *Dr. C.V.Ratnam* (1 supra) and on interpretation of the provisions of Sections-24 and 27 of the Act, held as under: -

“On a plain reading of Section 27 of the Act, it is clear that it is penal in nature and is intended to empower the District Forum or the State/National Commission to punish not only the opposite party but also the complainant if it comes to the conclusion that the action on the part of the defaulter is dishonest and intentional. As explained in Vishwabarathi House Building Co-Op Society’s case (supra) and also in C.V.Ratnam’s case (supra). Section 27 is akin to Order-XXXIX Rule-24 of CPC or the provisions of the Contempt of Courts Act or Section-51 read with Order-XXI Rule-27 of CPC. It is no doubt true that the object of the Act is to provide speedy and simple redressal to consumer disputes and the procedure to be followed for settlement of consumer disputes is summary in

nature. However, having regard to the fact that Section-27 is a penal provision under which non-compliance of the order of the District forum or the State/National Commission would be punishable by way of imprisonment or fine, we are of the opinion that Section-27 cannot be equated with the other provisions of the Act providing for settlement of consumer disputes by the District Forum and State/National Commission. Therefore, the penal proceedings under Section-27 cannot be allowed to be taken recourse to even before the order of the District Forum or State/National Commission attains finality merely on the ground that the Act provides for speedy and simple redressal to consumer disputes, in fact, the language of Section-24 of the Act is plain and unambiguous and makes it clear that the order of a District Forum or State/National Commission shall be final only if no appeal has been preferred against such order. The law is well settled that the language employed in a statute is the determinative factor of legislative intent. Therefore, as held by the Full Bench in C.V.Ratnam's case (supra) Section-27 can be taken recourse to only by way of last resort after the order attains finality as provided under Section-24 of the Act."

In the light of the ratio contained in the afore-mentioned two judgments, we are of the opinion that respondent No.1-Commission cannot proceed with EA.No.2 of 2015 to the extent it pertains to the petitioner till disposal of FA.No.45 of 2015 by the National Consumer Disputes Redressal Commission.

Accordingly, the Writ Petition is allowed as prayed for, insofar as it pertains to the petitioner only. Needless to observe that respondent No.1-Commission may proceed with E.A.No.2 of

2015 only after the disposal of FA.No.45 of 2015 by the National Consumer Disputes Redressal Commission, depending upon its outcome.

As a sequel to disposal of the Writ Petition, WPMP.No.38322 of 2017 is disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE M.GANGA RAO

07th June, 2018

DR

