

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

WRIT PETITION No.35493 of 2018

04.10.2018

Between:

M/s.Godavari Securities,
represented by its Proprietor, Adilabad and another

..Petitioners

and

D.Satyanarayana

..Respondent

Counsel for the petitioners: Mr.Pratap Narayan Sanghi

Counsel for the respondent: None appeared

The Court made the following:



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

This writ petition is filed for *certiorari* to quash order, dated 10.09.2018, in C.C.No.40 of 2010 on the file of the District Consmer Forum, Adilabad.

2. After hearing Mr.Pratap Narayan Sanghi, learned counsel for the petitioners, we are not inclined to entertain the writ petition for adjudication on merits for the simple reason that against the impugned order, the petitioners have an effective alternative remedy of an appeal under Section 17(1)(a)(ii) of the Consumer Protection Act, 1986 (for short 'the Act') before the State Commission. The learned counsel has sought to convince us to entertain the writ petition on the ground that the respondent does not fall within the definition of "consumer" under Section 2(d) of the Act and therefore, the District *forum* did not have the jurisdiction to pass the impugned order.

3. In our opinion, the petitioners are entitled to raise all the legally permissible pleas including the question whether the respondent is a consumer within the definition of Section 2(d) of the Act in the appeal before the State Commission. When the statute provided for an effective alternative remedy of an appeal and the appellate authority is vested with the jurisdiction

to consider all the legally permissible pleas including that relating to the jurisdiction of the District *forum*, we have no reason, whatsoever, to entertain the writ petition for adjudication on merits, merely on the ground of the purported lack of jurisdiction of the District *forum*.

4. In the above view of the matter, without expressing any opinion on the merits of the case, the Writ Petition is dismissed with liberty to the petitioners to avail the remedy of the appeal.

5. As a sequel to dismissal of the writ petition, I.A.No.1 of 2018 filed by the petitioners for interim stay stands dismissed as infructuous.



C.V.NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

04th October, 2018
GHN