

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.6041 OF 2017

Dr Nitin s/o Chandrashekhar Kotwal

-vs-

Tarranuam Parveer, d/o Yusuf Ali, Balaghat (MP) and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri D. V. Mahajan, Advocate for petitioner.

Shri S. N. Kumar, Advocate for respondent No.2.

CORAM : A.S.CHANDURKAR, J.

DATE : March 27, 2019

Rule heard finally with consent of learned counsel for parties.

The petitioner who is the appellant before the State Consumer Disputes Redressal Commission is aggrieved by the order dated 03/08/2017 by which the appeal filed by the petitioner has been dismissed for want of prosecution. It is submitted on behalf of the petitioner that he was not impleaded as party in the complaint filed by the respondent No.1 herein before the District Consumer Disputes Redressal Forum. However, in the operative order there was a direction issued against him to pay an amount of Rs.1,00,000/- as compensation to the respondent No.1 herein. The said order has been challenged before the State Commission. In paragraphs 5 to 7 of the writ petition the reasons

for absence of the petitioner and his counsel have been mentioned. It is therefore prayed that the proceedings be restored for adjudication on merits.

The respondent No.1 has been duly served but there is no appearance on her behalf. The respondent No.2 who was also saddled with liability under order by the District Forum has no objection to the restoration of the proceedings.

Considering the fact that the petitioner was not joined as an opposite party in the complaint and he has been directed to pay compensation, it is found that adjudication of his appeal on merits is warranted. Though the petitioner and his counsel were absence on various dates, one opportunity to contest the proceedings on merits deserve to be granted. Hence the order dated 03/08/2017 is liable to be set aside on that count.

Subject to the petitioner paying costs of Rs.7500/- to the respondent No.1 before the said State Consumer Disputes Redressal Commission, the order dated 03/08/2017 is set aside. The appeal is restored to file for adjudication on merits. The amount of costs be paid within four weeks from today.

Writ Petition is allowed. No costs.