

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(227) No.597 of 2019

1. Sharad Sharma Aged About 58 Years Partner Saubhagya Estate, Permanent Address- Saubhagya Estate, MIG - 82, Padmanabhpuur, Durg C.G., Present Address At - 101, Avadhपुरi Colony, Risali, Bhilai, District Durg (C.G.)
2. Saubhagya Estate MIG- 67, Housing Board Colony, Kamla College Road, Kaurin Bhantha, Rajnandgaon, C.G. Through - Sharad Sharma, Partner Saubhagya Estate

---- Petitioners

Versus

- Smt. Manju Shrivastava D/o U.D. Verma Aged About 42 Years R/o 18 Acre, Police Line, Rajnandgaon C.G.

---- Respondent

For Petitioners : Mr. Mayank Kumar on behalf of Ms
Rashul Bhawnani, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

03-03-2020

Heard.

1. This petition has been brought praying for relief to set aside the final order and judgment dated 15.05.2019 passed by the National Consumer Disputes Redressal Commission, New Delhi in Revision Petition No.1740/2017 and also the order dated 22.05.2017 passed by the C.G. State Consumer Disputes Redressal Commission, Raipur in First Appeal No.809/2016.
2. Learned counsel for the petitioners submitted that the learned N.C.D.R.C. did not exercise the jurisdiction available to it under Section 21(b) of the Consumer Protection Act, 1986 (in short 'the Act, 1986'). The District Consumer Forum had passed the award dated 31.12.2005. As the order of the award was not complied, the execution case was

initiated by the respondent, in which the District Consumer Disputes Redressal Forum, Rajnandgaon, C.G. passed the order dated 15.12.2016, sentencing the petitioner No.1 with simple imprisonment of 3 years along with the fine of Rs.5,000/-. This order was challenged in First Appeal No.809 of 2016, which has been decided by the order dated 22.05.2017 in which the learned C.G.S.C.D.R.C. reduced the sentence of simple imprisonment to a period of two years only and the sentence of fine was maintained. Being aggrieved by this order, the petitioners then preferred revision before the N.C.D.R.C., New Delhi, where the learned N.C.D.R.C. has dismissed the revision petition on ground that it is not maintainable.

3. It is submitted that the petitioners are left with no option, for the reason that the statute is silent on this point as to being aggrieved by the order in revision passed by the N.C.D.R.C. what remedy shall be available to the petitioners. When the revision petition was filed before N.C.D.R.C., it was proposed and that the petitioners and the respondent want to compromise and settle the disputes and the N.C.D.R.C. granted time for the same. The petitioners and respondents have entered into a compromise and the compromise petition was presented at the time of hearing, even then, the same has not at all been appreciated by the learned N.C.D.R.C. and the revision petition was dismissed on the ground of maintainability.
4. Placing reliance on the judgment of Orissa High Court in the Case of **Oriental Bank of Commerce Vs. Minarva Dash & Ors.** Reported in **(2015) 0 Supreme (Ori) 307; (2015) 2 OLR 786**, it is submitted that when there is no remedy available under the Consumer Protection Act, in that case the petition under Article 226 and 227 of Constitution of India is maintainable before the High Court. It is also submitted that in the case of **Auro Developers & Ors. Vs. Mala Mukherjee & Ors.**

reported in **2012 AIR CC 1865 (CAL)**, the Single Bench of Calcutta High Court has held that the consumer forum are judicial authorities, therefore, the High Court is not denuded of its supervisory jurisdiction to mandate the inferior Court or Tribunal to act within statutory bounds.

5. Reliance has also been placed on the judgment of the Supreme Court in the **Karnataka Housing Board Vs. K.A. Nagamani** reported in **(2019) 6 Supreme Court Cases 424**.
6. Considered on the submissions made by the learned counsel for the petitioner, the District Consumer Dispute Redressal Forum D.C.D.R.F. has already passed an award on 22.05.2006 and the award in that order was not complied by the petitioners up to the year 2016, when the application for execution was filed. It is on this application for execution that the order dated 15.12.2016 was passed and this is an order under Section 27(A) of the Consumer Protection Act, 1986 which empowers the D.C.D.R.F. to impose sentence for non-compliance of any order made. There is a provision of appeal under Section 27(A) of the Act, according to which the appeal can be filed against the order of District Forum to the State Commission and this remedy was availed by the petitioner's side. There is a clear bar that under Section 27(A) of the Act, that except as provided u/s 27 (A), no appeal shall lie before the Court from any order of District Forum or the State Commission or the National Commission. Therefore, there is no provision of any further appeal to N.C.D.R.C. or any other Court.
7. The revision that was preferred before the N.C.D.R.C. under Section 21(b) very clearly provides that the revisional powers shall be exercised by N.C.D.R.C. of a pending or decided consumer dispute. The learned N.C.D.R.C. has held in the impugned order, that the execution petition does not fall under the definition of dispute, as defined under Section 21(b) of the Act and, therefore, held that the revision petition is not

maintainable.

8. Firstly, the N.C.D.R.C. is a National body, therefore, it cannot be said that it is a Tribunal inferior to this High Court. Secondly, the supervisory jurisdiction is only limited to this extent that the High Court can supervise whether the Court or Tribunal has proceeded and acted in accordance with the parameters laid down in the law. No error can be found with the order passed by the learned N.C.D.R.C., as it has acted in accordance with law and passed the impugned order. This has been confirmed by the Supreme Court in the case of **Karnataka Housing Board** (Supra) that a revision petition under Section 21(b) of the Act against any execution proceeding is not maintainable before the N.C.D.R.C. Therefore, there is no substance in this petition and this petition is not sustainable as no fault can be found with the proceedings of the N.C.D.R.C. or S.C.D.R.C. Hence, this petition is dismissed at the motion stage.
9. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Monika