

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3510/2018

Shreekrushna Hrudyalay And Critical
Care Center Through its Director
Mahesh s/o Gandumal Fulwani
Having it's Hospital at Congress Nagar,
Dhantoli, Nagpur.

..... PETITIONER
(Original O.P.)

// VERSUS //

1. Rahandamal Haraldas Chelwani,
Aged about 66 yrs, Occ. Business,
Ganesh Ward, Pusad,
Tah – Pusad, Dist Yavatmal – 445204.

2. The District Consumer Disputes Redressal Forum,
New Administrative Building,
5th Floor, Civil Lines, Nagpur – 440 001
Through it's Registrar.

.... RESPONDENTS

Mr. M. Anilkumar Shankarlal, Advocate for petitioner.
Mr. Mohammad Ateeque, Advocate for respondent No.1.
Ms. Shamsi Haider, AGP for respondent No.2.

CORAM : AVINASH G. GHAROTE, J.
DATED : 12/10/2021

ORAL JUDGMENT :

- 1] Heard Mr. Anilkumar, learned counsel for the petitioner, Mr.
Mohammad Ateeque, learned counsel for respondent No.1 and Ms.
Shamsi Haider, learned AGP for respondent No.2.

2] **Rule.** Rule made returnable forthwith.

3] Heard finally by consent of the learned counsel appearing for the parties.

4] The respondent No.1 had filed a Complaint before the Consumer Forum alleging certain deficiencies against the petitioner vide Complaint No.602 of 2011, which came to be decided on 31.8.2013 by directing the petitioner to supply the documents relating to the surgery performed upon the respondent No.1 within 30 days, failing which an amount of Rs.1,50,000/- was directed to be refunded from the date of the complaint till its actual payment. A cost of Rs.50,000/- on account of harassment was imposed and Rs.10,000/- was imposed as the cost of the proceedings. In an appeal filed by the present petitioner bearing First Appeal No. FA/13/229, the State Consumer Disputes Redressal Commission by its Judgment dated 29.04.2017, partly allowed the appeal and reduced the damages on account of harassment from Rs.50,000/- to Rs.20,000/-.

5] The respondent No.1 filed an application under Section 27 of the Consumer Protection Act, 1986, in which, an application came to be filed by the petitioner contending that the entire order of the State Commission stood complied with and the application U/s 27 be dismissed, dismissal of which by the order dated 17.04.2018, has

resulted in the present petition.

6] There is no dispute that the cost as well as the damages imposed have already been deposited with the Consumer Forum and the order to that extent stands complied with.

7] Mr. Anilkumar, learned counsel for the petitioner by inviting my attention to para 10 of the Judgment in appeal points out that a finding has been recorded that the petitioner has complied with the direction to send the bills available with him to the Authorities. This is not disputed by Mr. Mohammad Ateeque, learned counsel for respondent No.1, who however, contends that certain more documents were required to be sent. He, however, agrees that the claim before the learned Forum was not in respect of certain specified documents but, was in regard to sending of the documents relating to surgery available with the petitioner and the bill of the same, which have been accordingly sent. This being the position, the first direction as contained in the Judgment of the learned Appellate Court regarding sending of the relevant papers of the surgery to the competent Authority, also stood complied with.

8] Thus, it would be apparent that the entire directions as contained in the order of the learned Forum as modified by the

Commission stands complied with. Without considering this position, the learned Forum passed the impugned order, which clearly cannot be sustained, in view of what has been stated above. Since now it is apparent that the order stands complied with the proceedings, obviously cannot continue.

9] In that view of the matter, the impugned order is hereby quashed and set aside. The application at Exh. 17 filed by the petitioner is allowed and the EA No.13/109 stands dismissed.

10] Needless to say that the petitioner and respondent No.1 shall be entitled to withdraw the amount deposited before the learned Forum, in the quantum to which they would be entitled to.

11] Rule accordingly. No costs.

(AVINASH G. GHAROTE, J)