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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.30136 of 2013

&

M.P.No.1 of 2013

R.Sankarasubbu

... Petitioner

Vs.

1.The State Consumer Disputes Redressal Commission
Mylapore,
Chennai

2.The District Consumer Disputes Redressal Forum,
Mylapore,
Chennai.

3.V.Senthilkumar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records in F.A.No.28/2013 dated 5th July 2013 of the 1st respondent set aside the order of the 2nd respondent dated 8th October 2012 in C.C.No.101/2012 and quash the same as unconstitutional and illegal as it violates the principles of natural Justice.

For Petitioner : Mr.M.Radhakrishnan
for Mr.P.Pugalthi

For Respondents : Mrs.N.Senthil Selvi
1 & 2 Government Advocate

For Respondent 3 : Not ready in Notice.

O R D E R

The present Writ Petition is filed challenging the order passed by the State Consumer Disputes Redressal Commission, Chennai in F.A.No.28 of 2013.

2. The learned counsel for the petitioner strenuously contended that once the order of the State Consumer Disputes Redressal Commission is without jurisdiction and not an order at all in the eye of law, then Writ Proceedings under Article



226 of the Constitution of India has to be invoked and the High Court is empowered to entertain such Writ proceedings.

3. It is further contended by the learned counsel for the petitioner that it is the constitutional duty of the High Court to ensure that the orders passed without jurisdiction are to be set aside by examining facts and circumstances.

4. This Court is of the considered opinion that, no doubt all the Writ Petitions are maintainable under Article 226 of the Constitution of India. However, the entertainability of the Writ Petition has to be looked into by the High Court, whenever Writ comes for consideration. Thus, it is not a question of maintainability, but it is the question of entertainability. When entertainability ground has to be considered, admittedly, in the present case the order has been passed by the State Consumer Disputes Redressal Commission and statute contemplates an appeal before the National Consumer Disputes Redressal Commission.

5. When forums are created under the statute for effective adjudication of the orders passed by the subordinate forums, this Court need not to entertain the Writ Petition. Of course, when such forums are defunct and non-functional, at those point of time the High Courts are entertaining the Writ. But in the present case admittedly, the District Forum, State Commission, and National Commission are functioning and therefore the petitioner has to approach the National Consumer Disputes Redressal Commission for the purpose of redressal of his grievances. Contrarily, the High Court need not to entertain the present Writ Petition. In the event of entertaining the Writ, it will not only create bad precedent, but, it would usurp the powers of the National Consumer Disputes Redressal Commission.

6. Therefore, this Court is not inclined to entertain the Writ Petition and the Writ Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The State Consumer Disputes Redressal Commission

Mylapore,
Chennai.



2.The District Consumer Disputes Redressal Forum,
Mylapore,
Chennai.

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+1cc to Government Pleader SR. No.68685

W.P.No.30136 of 2013

AJS (CO)
PR (05/01/2022)