

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

Civil Revision Petition Nos.1226 of 2020, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65,66, 68, 69,70, 71, 73, 74, 75, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 89, 90 and 102 of 2021.

COMMON ORDER:

Since all these civil revision petitions arise out of common issue, they are being disposed of by this common order.

2. The civil revision petitions are filed against the Consumer Complaints filed by respondents for deficiency of services on the part of petitioner Company.

3. Heard Sri S. Niranjan Reddy, learned Senior Counsel appearing on behalf Sri N. Naveen Kumar, learned counsel for the petitioner, in all the civil revision petitions, and respondent No.1-party-in-person-Mr. Jitendra Jain in C.R.P.No.1226 of 2020.

4. Learned Senior Counsel for the petitioner submits that the Consumer Forum has no jurisdiction to entertain the complaints because the respondents have to approach the competent authority under Air Craft Act, 1934, since they are seeking directions from the Consumer Forum under the said Act and also under Telecom Regulatory Authority of India Act, 1997, and that the jurisdiction aspect has to be decided by the Consumer Forum as preliminary issue since objection is raised, but Forum is proceeding further on merits of the matter. He further submits that when the special Act is enacted, the respondents have to seek remedy under the said Act, but not before the Consumer Forum under the Consumer Protection Act, 1986, and that since one of prayers before Consumer Forum is for directions to statutory authorities under special enactments, the same cannot be granted by the Forum as it is only

constitutional Courts which can grant such a relief. He also submits that an alternative remedy by way of approaching the Consumer Forum is not a bar for entertaining the civil revision petitions under Article 227 of the Constitution of India. He relied upon the judgment of the Supreme Court in **Whirlpool Corporation Vs Registrar Of Trade Marks, Mumbai and othersⁱ**.

5. On the other hand, respondent No.1-party-in-person appearing in C.R.P.No.1226 of 2020 submits that remedy under Consumer Protection Act, 1986, is in addition to other remedies available and as such there is no bar in entertaining the complaint and that as the petitioner has already raised objections regarding jurisdiction aspect before the Consumer Forum, the same can be considered by the Consumer Forum at the time of passing of main order and that the consumer complaint is maintainable because individual consumers cannot approach in view of the bar provided under Section 14(a)(iii)(B) under the Telecom Regulatory Authority of India Act, 1997. He submits that petitioner has not filed counters though the period of 45 days elapsed and now to avoid the same and delay the proceedings, it filed present civil revision petitions. He also submits that respondents in all the civil revision petitions are his family members, relatives and friends and the issue is same before the Consumer Forum.

6. The fact that the objections regarding jurisdiction of the Consumer Forum have already been filed before the Consumer Forum is not in dispute. No doubt, the existence of alternative remedy is not a bar for entertaining the civil revision petitions under Article 227 of the Constitution of India, as contended by the learned senior counsel. Since objections with regard to jurisdiction have already been filed before the Consumer Forum

and as the Consumer Complaints are pending, this Court is of the opinion that the Consumer Forum can also take up the jurisdiction aspect. Both the senior counsel and party-in-person agree that jurisdictional issue has to be decided, but according to senior counsel, that issue has to be decided in these civil revision petitions, and if this Court is not inclined, at least the Forum should take up the issue as preliminary issue before deciding main issue in the complaint, but whereas the party-in-person stated that jurisdictional issue can be decided along with merits of the matter. Since objections are pending, it is for the Forum to decide whether jurisdictional issue should be decided as preliminary issue or along with main issue as per provisions of Consumer Protection Act, 1986, and the law laid down by the Courts. Other objections raised by party-in-person and other respondents in civil revision petitions also need to be considered by the Consumer Forum.

7. In view of the above facts and circumstances, the Civil Revision Petitions are disposed of, directing the Consumer Forum to decide the jurisdiction aspect by considering the objections raised by petitioner in accordance with law, as indicated above. Accordingly, the interim order granted by this Court on 23.12.2020 and extended on 22.01.2021, is vacated. No order as to costs.

8. Miscellaneous petitions, if any pending in these revisions, shall stand closed.

A.RAJASHEKER REDDY, J

29th January, 2021
sj

ⁱ 1998(8) SCC 1