

LPA No.739 of 2022 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA No.739 of 2022 (O&M)

Date of decision : 05.09.2022

M/s Y.P.S. Developers Pvt. Ltd. and others

.....Appellants

VERSUS

District Consumer Disputes Redressal Commission-II,

U.T. Chandigarh and others

....Respondents

**CORAM:- HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. K.D.S. Hooda, Advocate
for the appellants.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the order passed by the learned Single Judge dated 18.08.2022 in the writ petition which was preferred by the appellant challenging the order dated 23.02.2022 (Annexure P-8) passed by the District Consumer Disputes Redressal Commission-II, U.T., Chandigarh, whereby, an application preferred by respondent No.2, has been allowed directing the appellants to pay an amount of ₹20,37,788/- along with interest @ 6% per annum.

Learned counsel for the appellants contends that the learned Single Judge has, while dismissing the writ petition, taken note of the fact that the order is appealable under the statutory provisions and, therefore, has not exercised its jurisdiction. He contends that there is no bar with regard to

the entertainment of the writ petition when an order is illegal and unsustainable in law, specially when it is far beyond the period of limitation which is provided for in the Act under Section 69 where the period for entertaining the petition is two years, whereas, in the present case, it was more than 4½ years. Counsel further contends that in such circumstances, the learned Single Judge should have exercised its extraordinary powers and entertained the writ petition. He, however, concedes that there is a statutory remedy of appeal available against the impugned order and if he avails of the said benefit, the requirement is that 50% amount of compensation will have to be deposited consideration of the said appeal. Prayer has, thus, been made for setting aside the order passed by the learned Single Judge and for entertaining the present appeal.

Having considered the submissions made by the counsel for the appellants, we are of the considered view that power under Article 226 of the Constitution of India is discretionary and it is for a Court to decide as to whether a case is of such a nature where the said power is to be exercised or not, specially when there is an alternate efficacious statutory remedy available for challenging the order passed by the authority of which the appellants are aggrieved. Merely because the pre-deposit of an amount is required for an appeal to be entertained as provided for under the Statute cannot be taken as a sole ground for by-passing the statutory remedy available to a person. In the present case, primarily that appears to be a reason for having filed the writ petition. The mandate of the Statute cannot be allowed to be scuttled during the process of availing the remedy of the writ petition. It is not in dispute that the jurisdiction to set aside orders

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passed by the District Consumer Disputes Redressal Commission-II, U.T., Chandigarh, is available with the Appellate Authority. It can even go into the aspect of the limitation as is being sought to be projected by the learned counsel for the appellants.

In the light of the above, we do not find any illegality in the order passed by the learned Single Judge which would call for any interference by this Court in the present appeal.

The appeal, therefore, stands dismissed.

In view of the disposal of the main appeal, all pending applications stand dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

05.09.2022

Harish

(ALOK JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No