



C.R.P(MD)No.1329 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.06.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1329 of 2023

B.K.Selvarani

...Revision Petitioner/
Appellant/Petitioner/
Petitioner

Vs.

The Manager,
A.R.Hospital Private Limited,
P & T Nagar Branch,
33, P & T Nagar Main Road,
Viswanathapuram,
Madurai-625 014.

...Respondent/Respondent/
Respondent/Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order passed on 10.04.2023 made in F.A.SR.No.93 of 2023 in C.M.PNo.13 of 2020 in C.C.S.R.No.23 of 2020 on the file of the State Consumer Dispute Redressal Forum at Madurai.

For Petitioner : M/s.G.Dhanalakshmi



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ORDER

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The present civil revision petition has been filed against the order dated 10.04.2023 in F.A.SR.No.93 of 2023 in C.M.P.No.13 of 2020 in C.C.S.R.No.23 of 2020 on the file of the State Consumer Dispute Redressal Forum at Madurai.

2. The petitioner has earlier filed a consumer complaint before the District Consumer Dispute Redressal Forum in CCSR.No.23 of 2020, which came to be dismissed by the District Consumer Dispute Redressal Forum, by an order, dated 28.12.2022.

3. Aggrieved by the same, the petitioner preferred an appeal in F.A.SR.No.93 of 2023, which has been dismissed by the State Consumer Dispute Redressal Forum for non-prosecution with the following observations:

"No representation for the petitioner. Petitioner is called absent. Petition is rejected."

4. The petitioner has filed the present Civil Revision Petition questioning the aforesaid order stating that the State Consumer Forum has no power to admit the proceedings for restitution of an appeal.



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5. Therefore, it is open for the petitioner to file appropriate application before the State Consumer Dispute Redressal Forum for restoration of the appeal which was dismissed for non-prosecution. Only if such an application is rejected, the petitioner can approach this Court under Article 227 of the Constitution of India.

6. In my view, the petitioner has directly approached this Court under Article 227 of the Constitution of India when indeed the petitioner has an alternate remedy before the State Consumer Forum to restore the appeal that was dismissed for non-prosecution under Section 49 of the Consumer Protection Act, 2019. The provisions relating to complaints under Sections 35 to 39 of the Consumer Protection Act, 2019 as made applicable to the disposal of the complaints by the State Commission which such modification as may be necessary.

7. The appeal against the order for the District Commission before the State Commission is covered by Section 19 of the Consumer Protection Act, 2019 as far as the procedure for disposal of the complaints by the State Commission are concerned, it is covered by the Section 49 of the Consumer Protection Act which reads as under:



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49. Procedure applicable to State Commission.

(1) The provisions relating to complaints under sections 35, 36, 37, 38 and 39 shall, with such modifications as may be necessary, be applicable to the disposal of complaints by the State Commission.

(2) Without prejudice to the provisions of sub-section (1), the State Commission may also declare any terms of contract, which is unfair to any consumer, to be null and void.

8. Although the provisions of Section 38 of the Consumer Protection Act are made applicable vide Section 49 of the Consumer Protection Act makes it clear that the provisions of the C.P.C are made applicable to.

9. The present Civil Revision Petition stands dismissed with the above observations. However, liberty is given to the petitioner to approach the State Consumer Dispute Redressal Forum for restoration of an appeal, which was dismissed for non-prosecution vide impugned order dated 10.04.2023 with a period of 15 days from the date of receipt of copy of this order. No costs.

09.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

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- 1.The State Consumer Dispute
Redressal Forum, Madurai.
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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