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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 30th NOVEMBER, 2023

IN THE MATTER OF:

+ **W.P.(C) 15371/2023 & CM APPL. 61683/2023**

COCONUT DEVELOPMENT BOARD

..... Petitioner

Through: Mr. Hanu Bhaskar, Advocate

versus

MOHAN DAS

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

1. The Petitioner/Coconut Development Board has approached this Court challenging the Order dated 31.07.2023 passed by the National Consumer Disputes Redressal Commission (NCDRC) in Revision Petition Nos.1106/2017 and 1129/2017 whereby the NCDRC dismissed the revision petitions granting liberty to the Petitioner to approach the appropriate civil court or other fora. However, the NCDRC has imposed costs of Rs.25,000/- on the Petitioner herein in each revision petition for non-appearance before the consumer forum.

2. The facts in brief indicate that the Respondent approached the District Consumer Disputes Redressal Forum, Kamrup, Guwahati, stating that the complainant is an approved Nurseryman by the Petitioner/Coconut Development Board.



3. It is the case of the complainant that by enrolling themselves under the Coconut Development Board, they are entitled to avail the facilities and benefits which are provided under various schemes of the Coconut Development Board.
4. It is stated that a Memorandum of Understanding was entered into between the Petitioner and the Respondent for supply of coconut seedlings. The complainant had raised issues regarding the cost of the seedlings in view of the increase in price of the seeds.
5. It is stated that the complainant had purchased coconut seeds @ Rs.20/- to Rs.25/- way back in the year 2009-10 but in the year 2010-11, the price of coconut seed went up to Rs.50-60 per pair. It is the case of the complaint that with exorbitant increase in the price of coconut seeds, it was not possible for the complainant to supply coconut at a price which is equal to the cost of the seeds.
6. It was stated that there was a violation of the Memorandum of Understanding entered into between the parties and the complainant prayed for compensation of Rs.3,72,500/- being the cost of the coconuts purchased for plantation @ Rs.25/- per coconut and other labour costs on the failure of the Petitioner to purchase the coconuts.
7. The District Forum *vide* Order dated 15.05.2015 held that the Petitioner herein has not honoured its commitment and, therefore, awarded compensation of Rs.60,000/- along with Rs.5,000/- to be paid towards costs of the case.
8. The Petitioner herein filed an appeal before the State Consumer Disputes Redressal Commission. The State Commission *vide* Order dated 20.03.2017 set aside the order passed by the District Forum and it was of the



opinion that the District Forum does not have the jurisdiction to entertain the dispute as the Petitioner herein was not rendering any service and that the Respondent herein is not a consumer on the ground that the complainant has not availed any services of the Petitioner, and, therefore, he is not consumer under the Consumer Protection Act.

9. The said order was challenged by the complainants before the National Consumer Disputes Redressal Commission. The National Consumer Disputes Redressal Commission appointed *Amicus Curiae* on behalf of the complainants. The *Amicus Curiae* very fairly submitted before the NCDRC that the Revision Petitioners therein are not consumers under the provisions of the Consumer Protection Act and sought permission to withdraw the revision petitions with liberty to approach the appropriate legal forum. The NCDRC dismissed the revision petitions with liberty to the Respondent to approach appropriate civil court/other fora. However, the consumer forum while rejecting the revision petition imposed costs of Rs.25,000/- on each of the revision petition to be paid by the Petitioner herein to the Revision Petitioners. It is this order which has been challenged in this Court.

10. It is the contention of the Petitioner that NCDRC does not have the jurisdiction to impose costs of Rs.25,000/- after dismissing the revision petition.

11. Material on record indicates that the complainants are poor farmers who have approached the Consumer Forum primarily because the Petitioner herein has not fulfilled its commitment under the Memorandum of Understanding.

12. Material on record discloses that there was no appearance on behalf



of the Petitioner before the District Forum as well as before the National Commission. Though the Petitioner herein is correct in its submission that the consumer forum while dismissing the appeal ought not to have imposed costs, however, the question which arises for consideration is as to whether this Court should exercise its jurisdiction under Article 227 of the Constitution of India to the order passed by NCDRC by setting aside the order of costs awarded to the poor farmers. Issuance of notice to the farmers who stay in Kamrup, Assam, and forcing them to come to Delhi and engage a Counsel would entail costs of more than Rs.25,000/- to those poor farmers while approaching this Court.

13. The scope of revisional jurisdiction under Article 227 of the Constitution of India has been succinctly described in various judgments of the Apex Court. It is well settled that under Article 227 of the Constitution of India should be exercised very sparingly. The power is discretionary and has to be exercised on equitable principle. The purpose of Article 227 of the Constitution of India is to keep strict administrative and judicial control by the High Court within its territory and the object of superintendence is to maintain efficiency, including the smooth and orderly functioning of the entire machinery of justice in such a way that does not bring in any disrepute.

14. It is also well settled that the power of interference under Article 227 of the Constitution of India should be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the Tribunals and Courts subordinate to the High Court. It has been held that the reserve and exceptional power of judicial intervention is



not to be exercised for grant of relief in individual cases but should be directed towards promotion of public confidence and public interest. [Refer to:- Shalini Shyam Shetty & Anr. v. Rajendra Shankar Patil, (2010) 8 SCC 329].

15. The power of superintendence conferred under Article 227 of the Constitution of India is to be exercised most sparingly and only in appropriate cases in order to keep the Subordinate Courts within the bounds of their authority and not for correcting mere errors. [Waryam Singh v. Amarnath, 1954 SCC OnLine SC 13].

16. Though there might be some justification to the arguments put forth by the learned Counsel for the Petitioner that after affirming the view of the State Commission that the petition was not maintainable, it was not open for the National Commission to impose costs of Rs.25,000/- on the Petitioner herein for each of the revision petition, this Court is not inclined to interfere under Article 227 of the Constitution of India because issuing notice in this case would actually lead to injustice to the Respondent/complainant, who is a poor farmer and has to come to Delhi to engage a Counsel and proceed ahead in the matter. The cost of engaging a Counsel in Delhi would be more than Rs.25,000/-. The cost of Rs.25,000/- according to this Court is nominal, which is being imposed on the Petitioner herein for non-appearance before the consumer forum.

17. The Petitioner herein has not appeared before the District Forum. It challenged the order before the State Commission. Even before the National Commission the Petitioner chose not to appear. The conduct of the Petitioner herein has, therefore, not been satisfactory and the Petitioner did not assist the National Commission. Looking at the plight of the



complainants in the review petitions, the National Commission appointed an *Amicus Curiae* to adjudicate the case.

18. This Court actually feels that the conduct of the Petitioner herein in trying to drag poor farmers to this Court is an abuse of the process of law which the instrumentality of the State should have desisted from doing.

19. The petition is dismissed along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

NOVEMBER 30, 2023

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