



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.289 OF 2024

Shri Harish s/o Ramesh Gawai,
Aged about 36 years,
Occupation Private,
Director of Laxmi Swapnapurti
Planners & Developers Private Limited,
Office at 3, Honey Archana Apartment,
'B'-Wing, Untkhana, Nagpur-440009. **PETITIONER**

...V E R S U S...

1. The Registrar (Legal),
State Consumer Dispute Redressal
Commission, Circuit Bench, Nagpur.
2. Shri Kisan s/o Vasaram Jadhav,
R/o Jeewanshila Apartment,
9th Floor, 'A'-Wing, Behind Government
Colony, Bandra (E), Mumbai-400051
Mobile No.9892020606. **RESPONDENTS**

Mr. P. D. Randive, Advocate for Petitioner.
Ms. Mayuri H. Deshmukh, AGP for Respondent No.1.

CORAM: **BHARAT P. DESHPANDE, J.**
DATE: **13th MARCH, 2024.**

ORAL JUDGMENT:

Heard learned counsel for the petitioner.

2. Rule. Rule is made returnable forthwith.

3. Heard with consent for final disposal.

4. The short issue involved in the present petition is order passed by State Consumer Disputes Redressal Commission dated 05.12.2023 whereby the revision filed by the petitioner is directed to be registered as appeal.

5. Learned counsel for the petitioner would submit that provisions of Section 47(1)(b) of the Consumer Protection Act, 2019 clearly permit aggrieved party to file revision even against the final order of the District Forum and thus the petitioner filed a revision, it ought to have been registered as revision. He submit that the directions of the State Commission to register such revision as an appeal is illegal and affecting the rights of the petitioner.

6. Learned A.G.P. opposed the said application by saying that the provisions of Section 47 clearly distinguish the revisional power as well as the appellate power and once the dispute is decided finally by the District Forum, the only remedy available to the aggrieved party is to file an appeal.

7. Section 47 of the Consumer Protection Act, 2019 read thus:

47. Jurisdiction of State Commission.—*(1) Subject to the other provisions of this Act, the State Commission shall have jurisdiction—*

(a) to entertain—

(i) complaints where the value of the goods or services paid as consideration, exceeds rupees one crore, but does not exceed rupees ten crore:

Provided that where the Central Government deems it necessary so to do, it may prescribe such other value, as it deems fit;

(ii) complaints against unfair contracts, where the value of goods or services paid as consideration does not exceed ten crore rupees;

(iii) appeals against the orders of any District Commission within the State; and

(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Commission within the State, where it appears to the State Commission that such District Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity.

(2) The jurisdiction, powers and authority of the State Commission may be exercised by Benches thereof, and a Bench may be constituted by the President with one or more members as the President may deem fit: Provided that the senior-most member shall preside over the Bench.

(3) Where the members of a Bench differ in opinion on any point, the points shall be decided according to the opinion of the majority, if there

is a majority, but if the members are equally divided, they shall state the point or points on which they differ, and make a reference to the President who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other members and such point or points shall be decided according to the opinion of the majority of the members who have heard the case, including those who first heard it:

Provided that the President or the other members, as the case may be, shall give opinion on the point or points so referred within a period of one month from the date of such reference.

(4) A complaint shall be instituted in a State Commission within the limits of whose jurisdiction,—

(a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, ordinarily resides or carries on business or has a branch office or personally works for gain; or

(b) any of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides, or carries on business or has a branch office or personally works for gain, provided in such case, the permission of the State Commission is given; or

(c) the cause of action, wholly or in part, arises; or

(d) the complainant resides or personally works for gain.

This clause provides for the pecuniary and geographical jurisdiction for filing of complaints in the State Commission. The pecuniary jurisdiction shall be for value of goods or services exceeds rupees one core but does not exceed rupees ten crore. It also provides that a consumer

can file a complaint in State Commission within the local limits of whose jurisdiction he resides or personally works for gain.

8. The jurisdiction of State Commission is provided under the present provision which cannot be read in isolation and the same has to be read along with Section 41 which deals with appeal against order of the District Commission.

9. Section 41 specifically provide that any person aggrieved by an order made by the District Commission may prefer an appeal against such order in the State Commission on the ground of facts or law within a period of 45 days from the date of order. The State Commission may entertain such appeal after the expiry of such period if it is satisfied that there was sufficient cause. However, the proviso further shows that no appeal by a person who is required to pay any amount in terms of the order of District Commission shall be entertained by the State Commission unless the appellant has deposited 50% of the amount in the manner as prescribed.

10. The petitioner in the present proceeding claimed that he has right to file revision even against the final order passed by

the District Commission. This attempt on the part of the petitioner is only to avoid the proviso appended to Section 41 i.e. deposit of 50%.

11. Section 47 though deals with revisional powers of the State Commission, it is clear that such revision could be filed against the order passed by the District Forum with regard to the objection raised to the jurisdiction or failure to exercise jurisdiction vested in it. Such revision cannot be permitted against the final decision of the District Forum for which appeal is provided under Section 41 with a condition to deposit 50% of the amount awarded by the District Forum.

12. The attempt on the part of the petitioner to challenge only the jurisdiction of the District Forum though the matter has been decided on merit, by filing revision and to avoid the proviso to Section 41 i.e. deposit of 50% of the awarded amount, cannot be allowed. The final order passed by the District Commission is an appealable order as provided under Section 41 of the said Act which includes the grounds for jurisdiction of the District Forum.

13. The impugned order passed by the State Commission

to direct the proceedings filed by the petitioner to be registered as an appeal under Section 41, is therefore, stands justified. There is no illegality or perversity in the said order. Accordingly, the petition stands dismissed. No order as to costs.

(BHARAT P. DESHPANDE, J.)

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