

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: 08.01.2024

116 CWP-28403-2023

LALIT BINDALPetitioner
VERSUS

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
AND OTHERS
.....Respondents

117 CWP-28632-2023

LALIT BINDALPetitioner
VERSUS

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
AND OTHERS
.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Pankaj Chandgothia, Advocate
for the petitioner.

Mr. Ashish Rawal, Advocate
for respondents No. 2 to 4-U.T. Chandigarh.

VINOD S. BHARDWAJ, J. (Oral)

Challenge in the present petitions is to the order dated
23.02.2022 (Annexure P-2) passed by respondent No.4 i.e. District

Consumer Disputes Redressal Commission-II, Chandigarh in consumer complaint No. 112 and 113 of 2021 respectively and order dated 25.05.2023 (Annexure P-4) passed in First Appeal No. 57 of 2023 as well as to the order dated 26.06.2023 (Annexure P-5) passed in Revision Petition No. 1556 of 2023 and 1557 of 2023 respectively.

Learned counsel appearing on behalf of the petitioner contends that the impugned award dated 23.02.2022 is passed by the Consumer Disputes Redressal Commission in violation of Section 36 of the Consumer Protection Act, 2019 and aggrieved thereof, the petitioner had preferred an appeal before the State Consumer Disputes Redressal Commission. However, as per the mandatory statutory requirement of depositing 50% of the amount as awarded by the District Commission is to be satisfied before filing of appeal, the contention of the petitioner is that he is liable to deposit 50% of the amount that would fall to his share amongst the respondents-opposite parties. He thus contends that the mandate should be read as 50% of the 1/4th of the amount that is required to be deposited by the petitioner since he was OP No. 4.

The award has been perused, there is no such apportionment of liability by the District Commission on the respect of respondents. The order having not apportioned the compensation *inter se* amongst the opposite parties, it cannot be read that the petitioner-OP No.4 is liable to pay only the proportionate amount as per order. The liability in such circumstances has to be deemed as joint and several.

Faced with the above, counsel for the petitioner contends that the provision needs to be read down so as to be harmoniously construed and that in the event the aforesaid provision is construed the way that it is, the

impact can be understood by the fact that in the event of each of the opposite parties preferring to file a separate appeal, the amount required to be deposited would be twice the amount as ordered to be awarded. He is, however, confronted with the fact that the petitioner has not raised a challenge to the second provision of Section 41 of the Consumer Protection Act, 2019 and as such, in the absence of any challenge to the said provision, the prayer for reading down the statutory provision would not be maintainable. Reading down of a statutory provision is only one of the causes to be adopted by a Court when a challenge to statutory provision is made and not otherwise. In the absence of any such challenge, the literal rule of interpretation would step in and the provision has to be read in the way that its primary reading suggest.

Counsel for the respondents No.2 to 4-U.T. Chandigarh, however, submits that the OP No.1 i.e. M/s YPS Developers (P) Ltd. had also raised a challenge to the order dated 23.02.2022 before this Court in CWP No. 18068 of 2022. The above mentioned writ petition was dismissed vide order dated 18.08.2022 against which LPA No. 745 of 2022 was preferred. The said Letters Patent Appeal had also been dismissed vide order dated 05.09.2022.

Counsel for the petitioner, however, contends that the issues involved in the said case did not relate to the legal arguments advanced in the present writ petitions. He prays for withdrawal of the present writ petitions so as to prefer an appropriate petition and to raise a challenge to the statutory provision.

The above said prayer is not opposed by the counsel appearing on behalf of respondents No.2 to 4-U.T. Chandigarh.

In lieu of the aforesaid submission, the present petitions are disposed of as withdrawn with liberty as aforesaid.

A photocopy of this order be placed on the file of connected case.

JANUARY 08, 2024
Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No