



2024:DHC:5958-DB



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ LPA 744/2024 & C.M. APPL. 44223-26/2024, CAV 356/2024

VEMPARALA SRIKANT & ANR

.....Appellant

Through: Mr. Harsh V. Singhal, Advocate.

versus

GENERAL SECRETARY, INDIA BULLS CENTRUM FLAT
OWNERS' WELFARE CO-OPERTATIVE SOCIETY,
HYDERABAD

.....Respondent

Through: None.

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Date of Decision: 5th August, 2024.**CORAM:****HON'BLE THE ACTING CHIEF JUSTICE****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****J U D G M E N T****MANMOHAN, ACJ : (ORAL)**

1. Present appeal has been preferred under Clause X of the Letters Patent Act, 1866, assailing the judgment dated 14th May, 2024, passed by the learned Single Judge of this Court, dismissing the W.P.(C) 11375/2022 titled "*Vemparala Srikant And Anr. vs. General Secretary, India Bulls Centrum Flat Owners Welfare Co-Operative Society, Hyderabad*", only on the ground of lack of territorial jurisdiction to entertain the underlying petition.

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2. The only question in the present appeal for consideration of this Court is whether an order passed by the National Consumer Disputes Redressal Commission (hereinafter referred to as “NCDRC”) in a Revision Petition or an Appeal against an order passed by the State Consumer Disputes Redressal Commission (hereinafter referred to as “SCDRC”) can be challenged before this Court or has to be challenged before the respective jurisdictional High Courts ?

3. Learned Single Judge in the impugned judgment has relied upon the five Judges Bench judgment of this Court in ***Sterling Agro Industries Limited vs. Union of India, 2011 SCC OnLine Del 3162*** to dismiss the underlying writ petition only on the ground of lack of territorial jurisdiction.

4. We have heard the learned counsel for the petitioner and perused the impugned judgment.

5. Apart from the ratio laid down by the Constitution Bench of this Court in ***Sterling Agro Industries Limited*** (supra), the issue raised in the writ petition, in our opinion, is no more *res integra* in view of the authoritative pronouncement of the Supreme Court in ***Universal Sompo General Insurance Co. Ltd. v. Suresh Chand Jain, 2023 SCC OnLine SC 877***. In that case, the Supreme Court had examined an identical issue and held that so far as the orders passed by the NCDRC in Appellate/Revisional jurisdiction is concerned, the same can be assailed under the provisions of Articles 226 or 227 of the Constitution of India, 1950, before the jurisdictional High Court. The relevant paragraphs of ***Universal Sompo*** (supra) are as under:



37. *This Court in Ibrat Faizan (supra), while explaining the importance of approaching the High Court, more particularly when a remedy is available by way of a writ petition under Article 226 of the Constitution or by way of a petition under Article 227 of the Constitution (supervisory jurisdiction) observed as under:*

“12.Also, in a given case, this Court may not exercise its powers under Article 136 of the Constitution of India, in view of the remedy which may be available to the aggrieved party before the concerned High Court under Article 227 of the Constitution of India, as it is appropriate that aggrieved party approaches the **concerned High Court** by way of writ petition under Article 227 of the Constitution of India.

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13. Now so far as the remedy which may be available under Article 136 of the Constitution of India is concerned, it cannot be disputed that the remedy by way of an appeal by special leave under Article 136 of the Constitution of India may be too expensive and as observed and held by this Court in the case of L. Chandra Kumar (supra), the said remedy can be said to be inaccessible for it to be real and effective. Therefore, when the remedy under Article 227 of the Constitution of India before the **concerned High Court** is provided, in that case, it would be in furtherance of the right of access to justice of the aggrieved party, may be a complainant, to approach the **concerned High Court** at a lower cost, rather than a Special Leave to Appeal under Article 136 of the Constitution.

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14.1. The scope and ambit of jurisdiction of Article 227 of the Constitution has been explained by this Court in the case of Estralla Rubber v. Dass Estate (P) Ltd., (2001) 8 SCC 97, which has been consistently followed by this Court (see the recent decision of this Court in the case of Garment Craft v. Prakash Chand Goel, 2022 SCC OnLine SC 29). Therefore, while exercising the powers under Article 227 of the Constitution, the High Court has to act within the parameters to exercise the powers under Article 227 of the Constitution. It goes without saying that even while considering the grant of interim stay/relief in a writ petition under Article 227 of the Constitution of India, the High Court has to bear in mind the limited



jurisdiction of superintendence under Article 227 of the Constitution. Therefore, while granting any interim stay/relief in a writ petition under Article 227 of the Constitution against an order passed by the National Commission, the same shall always be subject to the rigour of the powers to be exercised under Article 227 of the Constitution of India.”

(Emphasis supplied)

*38. In the aforesaid view of the matter, we have reached to the conclusion that we should not adjudicate this petition on merits. We must ask the petitioner herein to first go before the **jurisdictional High Court** either by way of a writ application under Article 226 of the Constitution or by invoking the supervisory jurisdiction of the **jurisdictional High Court** under Article 227 of the Constitution. Of course, after the High Court adjudicates and passes a final order, it is always open for either of the parties to thereafter come before this Court by filing special leave petition, seeking leave to appeal under Article 136 of the Constitution.*

(Emphasis supplied)

6. In our considered opinion, the words “*concerned High Court or jurisdictional High Court*” would imply a High Court, within whose local limits of the territorial jurisdiction, the original cause of action has arisen. We are also of the opinion that all the foundational facts necessary to constitute a cause of action arising within the local limits of a High Court would confer upon such High Court the necessary jurisdiction to exercise its powers under Articles 226 or 227 of the Constitution of India.

7. We are fortified in the view by the judgement of the Supreme Court in *Ambica Industries vs. Commissioner of Central Excise, (2007) 6 SCC 796*. The relevant paragraphs are extracted hereunder:-

“17. There cannot be any doubt whatsoever that in terms of Article 227 of the Constitution of India as also Clause (2) of Article 226 thereof, the High Court would exercise its discretionary jurisdiction as also power to issue writ of certiorari in respect of the orders passed by the subordinate courts within its territorial jurisdiction or if any cause of action has arisen therewithin but the same tests cannot be applied when the appellate court exercises a jurisdiction



over a tribunal situated in more than one State. In such a situation, in our opinion, the High Court situated in the State where the first court is located should be considered to be the appropriate Appellate Authority. The Code of Civil Procedure did not contemplate such a situation. It provides for jurisdiction of each court. Even a District Judge must exercise its jurisdiction only within the territorial limits of a State. It is inconceivable under the Code of Civil Procedure that the jurisdiction of the District Court would be exercisable beyond the territorial jurisdiction of the district, save and except in such matters where the law specifically provides therefor.

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26. In CCE v. Enkay HWS India Ltd. [(2002) 139 ELT 21 (Del)] Arijit Pasayat and D.K. Jain, JJ. in a case arising under Section 35-H of the Central Excise Act opined: (ELT pp. 21-22, paras 2-3)

“2. When the matter was placed for admission, we pointed out to learned counsel for the petitioner that this High Court does not have jurisdiction to deal with the matter, in view of the decision of this Court in Seth Banarsi Dass Gupta v. CIT [(1978) 14 DLT 11 (SN) : (1978) 113 ITR 817 (Del)] . In the said case, while dealing with the scope of entertaining reference under the Income Tax Act, 1961 (in short ‘the IT Act’), it was observed that this High Court, that the State within whose territorial jurisdiction original adjudicating authority functions would have jurisdiction to deal with the reference under the statute concerned. The view was again reiterated in Suresh Desai and Associates v. CIT [(1998) 230 ITR 912 : (1998) 71 DLT 772 (Del)] . That was also a case under Section 256(2) of the IT Act. In a petition for reference arising under the Act in CCE v. Technological Institute of Textile [(1998) 76 DLT 862 (DB)] it was held that the High Court within whose jurisdiction adjudicating authority functions would have territorial jurisdiction to entertain the matter. We have also expressed similar view in Central Excise Act case [CEA Case No. 7 of 2000 disposed of on 30-10-2000] taking note of decision of the Apex Court in Stridewell Leathers (P) Ltd. v. Bhankerpur Simbhaoli Beverages (P) Ltd. [(1994) 1 SCC 34 : AIR 1994 SC 158] while dealing with the scope of expression ‘the High Court’ under Section 10-F of the Companies Act, 1956 (in short ‘the Companies Act’).

3. We find no substance in the plea of learned counsel for petitioner that site of the Commissionerate or Appellate Authority determines the jurisdiction in view of what has been stated in the aforesaid decision.”

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38. We have noticed hereinbefore that if the decision of the High Court in the aforementioned question is taken to its logical conclusion, the same would lead to a great anomaly. It would also give rise to the problem of forum shopping. We may notice some examples to show that the determination of the appellate forum based upon the situs of the tribunal would lead to an anomalous result. For example, an assessee affected by an assessment order in Bombay may invoke the jurisdiction of the Delhi High Court to take advantage of the law laid down by it which may be contrary to judgments of the High Court of Bombay. This cannot be allowed. (See *Suresh Desai and Associates v. CIT* [(1998) 230 ITR 912 : (1998) 71 DLT 772 (Del)] , ITR at pp. 915-17 and *CCE v. Technological Institute of Textile* [(1998) 76 DLT 862 (DB)] .)”

8. In the present case, it is not disputed that all the foundational facts giving rise to the cause of action to the appellant to approach the Consumer Fora arose within the State of Telangana. It is undisputed that the appellant had approached the District Consumer Forum in Hyderabad and then the SCDRC in the State of Telangana. In that view of the matter, coupled with the aforesaid observations, it is apparent that it could only be the High Court of State of Telangana which would be the “*concerned High Court or the jurisdictional High Court*”.

9. Besides, in case this Court were to agree with the contentions of the learned counsel for the appellant, the resultant situation would be absurd. In that, if one were to consider the situation of an ordinary consumer, it would be, as a fall out of such interpretation, that a consumer who is agitating for his rights in far of places like Assam, Manipur or any other distant part of the country would have to necessarily travel to Delhi for such redressal. This interpretation cannot be countenanced, particularly in view of the doctrine of “*forum conveniens*”.

10. Thus, in that view of the matter, we are of the considered opinion that the view taken by the learned Single Judge in the impugned order is unassailable.



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11. The appeal alongwith the applications is dismissed, though without any costs.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J.

AUGUST 5, 2024/kct/rl

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