

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9803 of 2017

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Mithilesh Prasad S/o Late Raj Kishore Yadav Residence of Village - Devkuli,
P.S. P.O. - Makhdumpur, Dist - Jehanabad.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Pushpa Sharma, Authorized dealer of Holland Tractor Om Shanti Enterprises
Near Dardha River P.G. R
3. Branch Manager, Bank of India, Serthua Railway Station Tehta, P.S. -
Makhdumpur, Dist - Jehanabad.
4. The Managing Director, Registered Office, New Hollan Fiat I Pvt. Ltd. 303,
Central Plaza, 166 C.S.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rashmi Kumari Mandilwar, Adv. Mr. Nityanand Neeraj, Adv.
For the Respondent/s	:	Mr. Sanjay Kr. Giri- GP-9 Mr. Shailendra Kr. Singh, Adv. Mr. Utkarsh Utpal, Adv. Mr. Manish Kumar, GP-4

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 08-05-2025

1. The Writ petition is filed for the following
reliefs:-

*(i) For issuance of an appropriate
writ/order/direction to quash the
order dated 12/01/17 in Appeal No.
162/2015 passed by Bihar State
Consumer Disputes Redressal
Commission, Bihar, Patna, whereby*



and where under the appeal of the petitioner is dismissed.

(ii) For issuance of an appropriate writ/order/direction to allow the petitioner filing the supplementary affidavit annexing the copy of the complaint filed before the District forum.

(iii) For issuance of an appropriate writ/order/direction granting any other relief or reliefs for which the petitioner is found entitled under law.

2. During the course of arguments, preliminary objections were raised by the Learned counsel for the respondents, contending that the matter arises out of an appeal pertaining to Bihar State Consumer Disputes Redressal Commission, Bihar, Patna and the appropriate appellate authority is the National Consumer Disputes Redressal Commission, New Delhi. However, without availing the alternative remedy available under the Consumer Protection Act, the present Writ petition was filed and hence, it is not maintainable.



3. In support of his contentions, the Learned counsel for the respondents relied on the judgment of the Hon'ble Apex Court in **CICILY KALLARACKAL V. VEHICLE FACTORY** reported in **(2012) 8 SCC 524**, wherein their lordships held at para nos. 3, 4 and 9 which are as follows:-

3. So far as the issue of jurisdiction is concerned, the learned counsel for the petitioner is right that the High Court had no jurisdiction to deal with the matter against the order of the Commission. However, while dealing with a similar issue this Court in Mohd. Swalleh v. Addl. District Judge, Meerut observed: (SCC p. 46, para 7)

"7. It was contended before the High Court that no appeal lay from the decision of the prescribed authority to the District Judge. The High Court accepted this contention.... (sic no appeal lay)... On that ground the High Court declined to interfere with the order of the learned District Judge. It is true that there has been some



technical breach because if there is no appeal maintainable before the learned District Judge, in the appeal before the learned District Judge, the same could not be set aside. But the High Court was exercising its jurisdiction under Article 226 of the Constitution. The High Court had come to the conclusion that the order of the prescribed authority was invalid and improper. The High Court itself could have set it aside. Therefore in the facts and circumstances of the case justice has been done though, as mentioned hereinbefore, technically the appellant had a point that the order of the District Judge was illegal and improper. If we reiterate the order of the High Court as it is setting aside the order of the prescribed authority in exercise of the jurisdiction under Article 226 of the Constitution then no exception can be taken. As mentioned hereinbefore, justice has been done and as the improper order of the prescribed authority



has been set aside, no objection can be taken."

(emphasis added)

In view of the above, it is not always necessary to set aside an order if it is found to have been passed by an authority/court having no jurisdiction.

4. *Despite this, we cannot help but state in absolute terms that it is not appropriate for the High Courts to entertain writ petitions under Article 226 of the Constitution of India against the orders passed by the Commission, as a statutory appeal is provided and lies to this Court under the provisions of the Consumer Protection Act, 1986. Once the legislature has provided for a statutory appeal to a higher court, it cannot be proper exercise of jurisdiction to permit the parties to bypass the statutory appeal to such higher court and entertain petitions in exercise of its powers under Article 226 of the Constitution of India. Even in the present case, the*



High Court has not exercised its jurisdiction in accordance with law. The case is one of improper exercise of jurisdiction. It is not expected of us to deal with this issue at any greater length as we are dismissing this petition on other grounds.

9. *While declining to interfere in the present special leave petition preferred against the order passed by the High Court in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India, we hereby make it clear that the orders of the Commission are incapable of being questioned under the writ jurisdiction of the High Court, as a statutory appeal in terms of Section 27-A(1)(c) lies to this Court. Therefore, we have no hesitation in issuing a direction of caution that it will not be a proper exercise of jurisdiction by the High Courts to entertain writ petitions against such orders of the Commission.*



4. As per the above citations the principle laid down is that the High Court has no jurisdiction to entertain matters arising from the orders passed by Consumer Dispute Redressal Commission. This principle squarely applies to the present facts and circumstances of the case. Therefore, the Writ petition is dismissed as it is devoid of merits.

(G. Anupama Chakravarthy, J)

Manish/-

AFR/NAFR	NAFR
CAV DATE	N/A
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