

C.R.P.No.2093 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 07-03-2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

Civil Revision Petition No. 2093 of 2024

and

CMP. No. 11171 of 2024

The Managing Director
Tamil Nadu Housing Board

493, Annasalai, Nandhanam Post, Chennai – 35.

... Petitioner

Versus

G. Seenivasan

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, pleaded to set aside the order dated 30.04.2024 made in E.A.No.20 of 2023 in C.C.No.19 of 2021 on the file of the District Consumer Disputes Redressal Commission, Krishnagiri, by allowing this Civil Revision Petition.

For Petitioner : Mr. R. Neelakandan
Additional Advocate General
for Mr. S. Ramachandran

For Respondent : Mr. I. Calvin Jones
for Mr. S. Prabakar



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ORDER

This Civil Revision Petition is filed seeking to set aside the order dated 30.04.2024 made in E.A.No.20 of 2023 in C.C.No.19 of 2021 on the file of the District Consumer Dispute Redressal Commission, Krishnagiri (in short “the *DCDRC*”).

2. The brief facts of the case is as follows :

a. There arose a dispute when the petitioner had proposed to acquire lands of the one K.Govindarajulu and others in the year 1991, notified the same in G.O. Ms. No. 137, dated 30.01.1991, in the year 1994 based on the award the petitioner had acquired the Land of the K.Govindarajulu in S.No. 518/1B and others under Land acquisition act.

b. The said K.Govindarajulu and others challenged the same in W.P. No. 19701 of 2008 seeking to quash call for records relating to Commissioner and Secretary to the Government, Housing and urban Development Department, Fort. St. George, Chennai in its letter No. 26421/LA2(2)/06-4 dated 03.09.2007, to quash the same and direct the Commissioner and Secretary to the Government, Housing and urban Development Department, Fort. St. George, Chennai to restitute the



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K.Govindarajulu's land comprising in S. No. 518/1B and the same was allowed by this court vide order dated 21.08.2013. aggrieved by the same in the year 2019 the Petitioner had preferred a writ appeal and the same was kept pending vide Writ Appeal Filing Number 68371 of 2019 before this court.

c. Meanwhile, the K.Govindarajulu gave a representation on 20.03.2014 before the Secretary to the Government, subsequently had preferred a writ petition in W.P. No. 19391 of 2014 to consider the representation dated 20.03.2014 regarding issuance to the patta in favor K.Govindarajulu on lands in Survey Nos.517 an extent of 2.62 acres and 518/1B an extent of 2.42 acres, in Hosur Village and Taluk in Krishnagiri District and the same has been allowed on 22.07.2014. Subsequently, the Principal Secretary to Government issued letter to K.Govindarajulu directing him to approach the respondent for issuance of 'No Objection Certificate' (in short NOC) and then approach the Special Thasildar, Town Settlement Office, Hosur for issuance of Patta.

d. The said K.Govindarajulu, had sold the property in Survey No. 518/B Plot No. 27 to the respondent herein and respondent had sent a representation to the petitioner dated 24.11.2020 to issue NOC, in which



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the petitioner had sent a reply letter to respondent requesting him to send additional two sets of relevant documents and pay a sum of Rs. 1,180/- through demand draft. The Respondent herein sent documents and demand draft but the Petitioner had neither issued NOC nor rejected the representation of the respondent and the respondent had further sent a reminder letter dated 19.04.2021 to the Petitioner.

e. Aggrieved by the actions of the petitioner the respondent filed a complaint under Section 35 of the Consumer Protection Act, 2019, before the District Consumer Dispute Redressal Commission at Krishnagiri District in C.C. No. 19 of 2021, seeking to direct the petitioner to issue 'No Objection Certificate' and to pay Rs.2 Lakhs as compensation for the hardship, suffering and mental agony and Rs.20,000/- towards costs. Since the revision petitioner did not appear before the DCDRC, even after notice was served on 30.11.2021, the petitioner was set ex-parte, the said complaint was allowed by order dated 04.05.2022 and a direction was issued

“We Direct the Opposite Party to decide the issuance of “ No Objection Certificate” within a period of 15 days from the date of receipt of a copy of the order and to pay a sum of Rs.25,000/- towards compensation for



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deficiency of service and mental agony, and costs of Rs.5,000/- within one month from the date of this order, failing which the Opposite Party is liable to pay the above said amount of Rs.25,000/- with interest calculated at the rate of 9% from the date of filing of that complaint till realization”

f. Aggrieved over the order dated 04.05.2022, the petitioner preferred an appeal in F.A. No. 321 of 2022 before the State Consumer Dispute Redressal Commission, Chennai. (hereinafter referred as “the SCDRC”). The appeal was allowed on 17.11.2022, by setting aside the ex-parte order passed by the DCDRC, Krishnagiri, and remitted the matter back to the DCDRC, Krishnagiri, for fresh disposal in accordance to law . The SCDRC has also directed the parties to appear before the DCDRC, Krishnagiri on 19.12.2022, on which date, the Consumer Complaint can be heard. It was also directed that the petitioner shall file not only the vakalat, but also the written version, proof affidavit, and documents if any. Further, it directed the DCDRC, Krishnagiri, to dispose of the complaint, within a period of three months from the date of receipt of a copy of the order.

g. Even after remanding the matter back to the DCDRC, Krishnagiri,



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the petitioner failed to file the written version, proof affidavit, and documents as per the direction of the SCDRC. Therefore, the petitioner once again remained ex-parte and an ex-parte order came to be passed on 27.02.2023, directing the revision petitioner to issue “NOC”, to pay Rs.1,00,000/- towards the compensation for deficiency of service and mental agony and cost of Rs.10,000/- to the complainant/respondent, within one month from the date of that order, failing which the above award amount, except cost shall carry interest at the rate of 9% p.a, from the date of filing of that complaint till realization. The DCDRC also directed that the award amount shall be proportionately recovered from the salary of the officers in charge of the opposite party/revision petitioner herein, who held the post from 03.08.2021 to 27.02.2023.

h. Aggrieved by the said order 27.02.2023, the petitioner had once again preferred an appeal in F.A.No.530 of 2023 before the State Consumer Dispute Redressal Commission, Chennai. By order dated 20.10.2023, the SCDRC dismissed the appeal, confirming the order passed by the DCDRC, Krishnagiri dated 27.02.2023. A subsequent revision was filed under Section 21B of the Consumer Protection Act, 1986, by the petitioner herein



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before the National Consumer Disputes Redressal Commission at New Delhi, in Revision Petition No.811 of 2024, which was also dismissed on 15.04.2024, by confirming the order of the DCDRC. Thereafter, no further proceedings has been initiated by the petitioner till date as against the order passed by the DCDRC.

i. Since the order passed by the DCDRC, Krishnagiri was not complied with, the respondent herein had filed an E.A.No.20 of 2023 in C.C.No.19 of 2021 under Section 72(1) of the Consumer Protection Act. Even in E.A. No. 20 of 2023, the petitioner did not appear before the DCDRC. Thereby, by a docket order dated 30.04.2024, DCDRC issued a bailable warrant against the petitioner. Challenging the said order dated 30.04.2024, the petitioner has come up with the present Civil Revision Petition before this Court under Article 227 of the Constitution of India.

3. Learned Additional Advocate General appearing for the petitioner submitted that DCDRC, Krishnagiri had directed the then Managing Director to appear before it on 30.04.2024. On that date, the Petitioner was deputed for election duty by the Election Commission of India as General



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Observer to Bagalkot Parliamentary Constituency Karnataka from 18.04.2024 to 09.05.2024 and in view of the same, he was unable to appear before the DCDRC, Krishnagiri on 30.04.2024 as directed. There is no willful disobedience in complying with the order passed by the DCDRC, Krishnagiri. Therefore, he prays that this Civil Revision Petition may be allowed and the docket order passed by the DCDRC, Krishnagiri be set aside.

4. In support of his contention, the learned Additional Advocate General submitted that in similar circumstance, this Court in CRP.No.1931 of 2011, dated 15.06.2017, in the case of ***The Trans India Resort Chief Manager (Legal and Administration) v. E.Balasubramaniam and one another***, had set aside the order passed by the District Consumer Disputes Redressal Forum, Chennai (South), in a revision filed under Article 227 of the Constitution of India.

5. Per contra, the learned counsel appearing for the respondent submitted that the petitioner filed an E.A. No. 20 of 2023 in C.C.No.19 of 2021 under Section 72 of the Consumer Protection Act, 2019. The order



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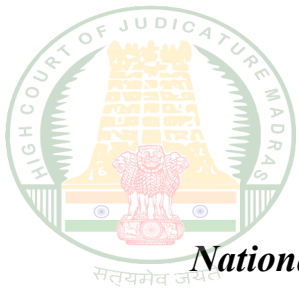
passed under Section 72 is appealable under section 73(1) of Consumer Protection Act, 2019 and thereby in view of availability of Statutory Appeal Remedy. Therefore, the present civil revision filed before this Court is not maintainable, hence, he seeks for dismissal of the petition.

6. Heard the learned Additional Advocate General appearing for the petitioner and the learned counsel appearing for the respondent and also perused the materials available on record.

7. For the sake of Convenience Section 72 and 73(1) of the Consumer Protection Act, 2019 are extracted hereunder :

“72. (1) Whoever fails to comply with any order made by the District Commission or the State Commission or the National Commission, as the case may be, shall be punishable with imprisonment for a term which shall not be less than one month, but which may extend to three years, or with fine, which shall not be less than twenty-five thousand rupees, but which may extend to one lakh rupees, or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the District Commission, the State Commission or the



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National Commission, as the case may be, shall have the power of a Judicial Magistrate of first class for the trial of offences under sub-section (1), and on conferment of such powers, the District Commission or the State Commission or the National Commission, as the case may be, shall be deemed to be a Judicial Magistrate of first class for the purposes of the Code of Criminal Procedure, 1973.

(3) Save as otherwise provided, the offences under sub-section (1) shall be tried summarily by the District Commission or the State Commission or the National Commission, as the case may be.

73. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, where an order is passed under sub-section (1) of section 72, an appeal shall lie, both on facts and on law from—

(a) the order made by the District Commission to the State Commission;

(b) the order made by the State Commission to the National Commission; and

(c) the order made by the National Commission to the Supreme Court.”



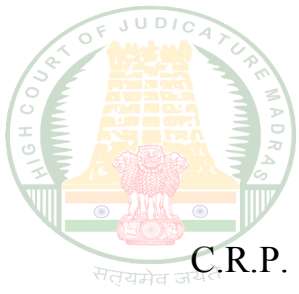
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8. It is pertinent to note that the respondent had filed a petition under Section 72 of Consumer Protection Act, 2019 vide E.A. No. 20 of 2023 in C.C. No. 19 of 2021 and the same was allowed by the District Consumer Reddresal Commission at Krishnagiri on 30.04.2024, issued bailable warrant as against the respondent on payment of batta and posted the case for execution of warrant on 03.06.2024.

9. The order under challenge was passed under Section 72 of the Consumer Protection Act, 2019. As against such an order, an appeal remedy is provided for under Section 73 of the The Consumer Protection Act. When an in-built statutory remedy is available, without exhausting the same, the petitioner has directly approached this Court invoking Article 227 of the Constitution of India.

10. The learned Counsel for the petitioner had cited the judgment in C.R.P. No 1931 of 2011 wherein, this Court had set-aside the order passed by the District Consumer Forum; however a division bench of this court in



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C.R.P. No. 1480 of 2022 dated 22.04.2022, in the case of **G.Rathinavelu**

Vs Indian Overseas Bank after relying in various decisions of the Apex court has held that :

“5. On a perusal of the recent judgment of the Apex Court, it is clear that when an appeal remedy is provided under the Act, the aggrieved party should exhaust the said remedy by filing an appeal before the Appellate Forum and the Writ Petition/Civil Revision Petition filed by them under Articles 226/227 of the Constitution is not maintainable. When the Petitioner can raise all the grounds available to them under law before the Appellate Forum, the filing of the Civil Revision Petition under Article 227 Cannot be entertained”

11. Further, it is relevant to discuss the distinction between an appellate jurisdiction and revisional jurisdiction and in this regard reliance can be placed to the decision of Honourable Apex Court in Karnataka Housing Board v. K.A. Nagamani MANU/SC/0674/2019 , wherein the fine line distinction between the both were discussed as under:

“A Revision Petition has a narrower scope than an 'appeal'. In Dattonpant Gopalvarao Devakate v. Vithalrao Maruthirao Janagaval

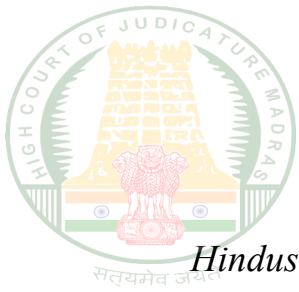


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MANU/SC/0396/1975 : (1975) 2 SCC 246 this Court discussed the distinction between "appellate jurisdiction" and "revisional jurisdiction" as follows:

2. 'Appeal' and 'revision' are expressions of common usage in Indian statute and the distinction between 'appellate jurisdiction' and 'revisional jurisdiction' is well known though not well defined. Ordinarily, appellate jurisdiction involves a rehearing, as it were, on law as well as fact and is invoked by an aggrieved person. Such jurisdiction may, however, be limited in some way as, for instance has been done in the case of second appeal under the Code of Civil Procedure, and under some Rent Acts in some States. Ordinarily, again, revisional jurisdiction is analogous to a power of superintendence and may sometimes be exercised even without its being invoked by a party. The extent of revisional jurisdiction is defined by the statute conferring such jurisdiction. The conferment of revisional jurisdiction is generally for the purpose of keeping tribunals subordinate to the revising Tribunal within the bounds of their authority to make them act according to law, according to the procedure established by law and according to well defined principles of justice.

6.4. Reference must also be made to the judgment of this Court in



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Hindustan Petroleum Corporation Ltd. v. Dilbahar Singh, (2014) 9 SCC 78

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wherein it was held that:

...Conceptually, revisional jurisdiction is a part of appellate jurisdiction but it is not vice-versa. Both, appellate jurisdiction and revisional jurisdiction are creatures of statutes. No party to the proceeding has an inherent right of appeal or revision. An appeal is continuation of suit or original proceeding, as the case may be. The power of the appellate court is coextensive with that of the trial court. Ordinarily, appellate jurisdiction involves rehearing on facts and law but such jurisdiction may be limited by the statute itself that provides for appellate jurisdiction. On the other hand, revisional jurisdiction, though, is a part of appellate jurisdiction but ordinarily it cannot be equated with that of a fullfledged appeal. In other words, revision is not continuation of suit or of original proceeding. When the aid of revisional court is invoked on the revisional side, it can interfere within the permissible parameters provided in the statute.

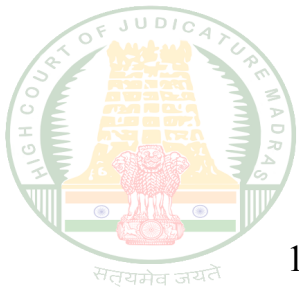
6.5. Ordinarily, the power of revision can be exercised only when illegality, irrationality, or impropriety is found in the decision making process of the fora below.”



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12. Upon careful consideration of the submissions and the decisions of the Hon'ble Supreme Court referred to in the preceding discussion, decision of the Division Bench of this Court, without going into merits of the case this Court is of the considered opinion that the order passed by the District Commission under Section 72 of the Consumer Protection Act, 2019 particularly with regard to the issuance of a bailable warrant as a last resort to secure the presence of the Petitioner in the execution proceedings cannot be said to be illegal, irrational or improper and thereby it does not need interference under Article 227 of the Constitution of India. A statutory appellate remedy is provided under Section 73 of the Consumer Protection Act, 2019. In light of this statutory framework, it would not be appropriate for this Court to entertain a revision petition against an order of the District Commission passed in execution proceedings, especially when such an order is issued in exercise of its statutory authority under Section 72 of Consumer Protection Act, 2019. Accordingly, this Court declines to exercise its supervisory jurisdiction under Article 227 of the Constitution and the revision petition is dismissed as not maintainable.



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13. Therefore, the Civil Revision is liable to be dismissed. However, liberty is given to the petitioner to approach the State Consumer Dispute Redressal Commission and challenge the order passed by the District Commission. The time taken in prosecuting the present revision before this Court shall be excluded under Section 14 of Limitation Act, 1963 for the purpose of computing the period of limitation to file an appeal before the Appellate Authority.

14. With the above observation and direction, this Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

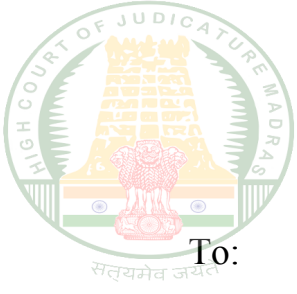
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Index : Yes/No

Speaking/Non-Speaking Order : Yes/No

Neutral Case Citation : Yes/No

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To:

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1. The District Consumer Disputes Redressal Commission, Krishnagiri.
2. The State Consumer Dispute Redressal Commission, Chennai.
3. The Managing Director, Tamil Nadu Housing Board,
493, Annasalai, Nandhanam Post, Chennai – 35.



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A.D. JAGADISH CHANDIRA, J.

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CRP NO.2093 of 2024
and
CMP. No.11171 of 2024

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