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CRP(PD).No.327 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

CRP.(PD).No.327 of 2025

and

CMP.No.2108 of 2025

Prabhu Herbert Samuel

... Petitioner

Vs.

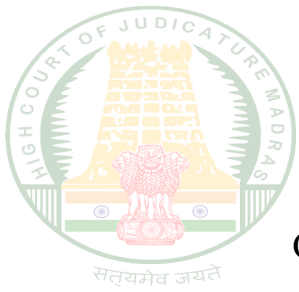
R.Rajammal

... Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order dated 14.06.2024 passed in Revision Petition No. 570 of 2020 by the National Consumer Disputes Redressal Commission at New Delhi confirming the order dated 20.12.2019 passed in F.A.No.302 of 2015 on the file of the State Consumer Dispute Redressal Commission, Chennai and order dated 23.09.2015 in C.C.No. 19 of 2012 on the District Consumer Dispute Redressal Forum at Erode.

For Petitioner

: M/s.A. Rithvik



ORDER

Challenging the order passed by the National Consumer Disputes

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Redressal Commission at New Delhi in revision petition of 570 of 2020, the petitioner is before this Court.

2. The facts are briefly set out herein below.

3. The petitioner herein, who is the opposite party before the Consumer Disputes Redressal Forum, Erode, would contend that the disputes between the parties had originated from a construction agreement dated 24.05.2010. The petitioner is the builder and the respondent is the building owner. The petitioner had completed construction and handed over possession to the respondent on 12.01.2012. At that time, a balance of Rs.15,000/- was payable by the respondent herein to the petitioner. When the petitioner had demanded the payment, the respondent had raised issues on the construction put up by the petitioner and filed a dispute before the District Consumer Disputes Redressal Forum, Erode, seeking payment of a sum of Rs.19,75,000/- on the basis that the construction put up by the petitioner was deficient.

4. The petitioner had entered appearance and resisted his case by



filing up his counter and evidence was also adduced.

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5. The Consumer Disputes Redressal Forum, Erode has appointed a Commissioner to estimate the value of repair on the subject building. The Commissioner so appointed had inspected the site and filed a report with an estimate for repair. The petitioner had raised very serious objections to the report as the Commissioner had not considered the works mentioned in the agreement and had made a general estimate. He had sought permission for filing objections to the report. However, the Consumer Disputes Redressal Forum, Erode rejected the same and directed the petitioner to pay a sum of Rs.4,75,000/- to the respondent.

6. Aggrieved by this order, the petitioner had preferred an appeal before the State Consumer Dispute Redressal Commission, Chennai in F.A.No.302 of 2015. Before the State Commission, he had once again taken out an application to receive the objections to the report filed by the Commissioner before the Consumer Disputes Redressal Forum, Erode. The State Commission though had found fault with the manner in which the amount had been determined by the Consumer Disputes Redressal Forum, Erode, however, proceeded to dismiss the appeal and stated that there is no provision to receive objections on the Commissioner's Report under the

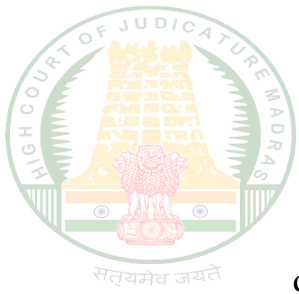


Consumer Protection Act.

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7. Challenging the said judgment, the petitioner had filed RP.No.570 of 2020 on the file of the National Consumer Dispute Redressal Commission, New Delhi. The National Commission without independently considering the issue on hand proceeded to simply follow the order of the State Commission and dismissed the revision petition. Aggrieved by the said order the petitioner had filed a Writ Petition in W.P.No.35920 of 2024 which was dismissed with a liberty being given to the petitioner to move a Revision Petition against the order. Accordingly, the present Civil Revision Petition has been filed .

8. The grievance of the petitioner is primarily that the order under revision is a non-speaking one and the principles of natural justice has been violated. The rejection of the objections raised against the Commissioner's Report was illegal. The petitioner's grievance is that the Forums below have all failed to take into consideration the fact that the Commissioner has not relied upon the agreement between the parties dated 24.05.2010 while submitting his report but has proceeded beyond the agreement. The learned counsel appearing for the petitioner would also reiterate the same contentions.



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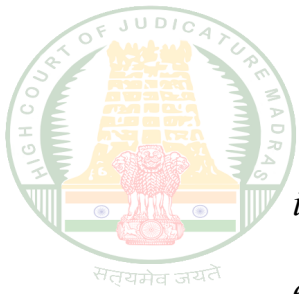
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9. Heard the counsel for the petitioner and perused the records.

10. The main ground of challenge is that the order passed in RP.No.570 of 2020 is a non speaking one. However, this Court is unable to accept the above contention since the National Consumer Dispute Redressal Commission, New Delhi, had rightly dismissed the Revision after placing reliance on the judgment of the Hon'ble Supreme Court reported in **2022 9 SCC 31 – Rajiv Shukla Vs. Gold Rush Sales and Services Ltd.** , wherein the Hon'ble Supreme Court had held as follows:-

“As per Section 21(b) the National Commission shall have jurisdiction to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised its jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity. Thus, the powers of the National Commission are very limited. Only



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in a case where it is found that the State Commission has exercised its jurisdiction not vested in it by law, or has failed to exercise the jurisdiction so vested illegally or with material irregularity, the National Commission would be justified in exercising the revisional jurisdiction. In exercising of revisional jurisdiction the National Commission has no jurisdiction to interfere with the concurrent findings recorded by the District Forum and the State Commission which are on appreciation of evidence on record.”

11. In view of the above, this Court once again sitting in revision over these orders is also bound by the concurrent findings of fact as arrived at by the District Forum and the State Commission. Therefore, the order passed by the National Consumer Dispute Redressal Commission, New Delhi is a well reasoned and well considered one and I see no reason to interfere with the same. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

06.02.2025

(shr)

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Index : Yes/No
Speaking Order: Yes/No
Neutral Citation : Yes/No

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To

- 1.The National Consumer Disputes Redressal Commission at New Delhi
2. The State Consumer Dispute Redressal Commission, Chennai
- 3.The District Consumer Dispute Redressal Forum at Erode.

P.T. ASHA. J.,

(shr)



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