IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH

124 **RSA-564-2024 (O&M)**
Date of decision: 04.03.2025

Mam Chand **...Appellant(s)**

Vs.

SDO (OP) Sub Urban, Sub Division,
UHBVNL, Jagadhri and others **...Respondent(s)**

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. R.S.Mamli, Advocate for the appellant.

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NIDHI GUPTA, J.

CM-2080-C-2024

Prayer in this application filed under Section 5 of the Limitation Act read with Section 151 CPC is for condonation of delay of 587 days in filing the accompanying appeal.

Heard.

For the reasons mentioned in the application which is duly supported by an affidavit of the applicant/appellant, the same is allowed and delay of 587 days in filing the accompanying appeal is condoned.

RSA-564-2024 (O&M)

The present second appeal has been filed by the plaintiff against the concurrent judgments and decrees passed by learned Courts below, whereby the suit of the appellant/plaintiff seeking Permanent Injunction, has been dismissed by both the Courts below.

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2. The parties shall hereinafter be referred to as per their status before the learned trial Court i.e. the appellant is the 'plaintiff'; and the respondents are the 'defendants'.

3. Brief facts of the case as set out in the plaint are that the plaintiff is having agricultural land on which he is also having one tubewell to which the defendants are supplying electricity to the tubewell of the plaintiff through account No. TJ-283. The bore of the tubewell went out of order because of low water level. The plaintiff failed to get it repaired. As such, the plaintiff required shifting of tubewell near the place where the bore was installed at another khewat of the plaintiff. The plaintiff spent a huge money on instalment of new bore. The defendants had assured the plaintiff to give connection at the shifted spot at the earliest in the year 2005. As per the Rules and Regulations, defendants had prepared the estimate to the tune of Rs.10,393/- to be deposited by the plaintiff. However later on the defendants had illegally demanded Rs.1,35,370/- instead of Rs.10,393/-. As such, a complaint was filed by the plaintiff under section 12 of the Consumer Act before the Consumer Disputes Redressal Forum, Jagadhri, which directed the defendants to receive the amount of Rs.10,393/- and to get released the connection on the tubewell of the plaintiff. Thereafter, electricity supply was shifted to new bore on 03.02.2009 and plaintiff has been depositing electricity charges. The defendants changed account number of the tubewell of the plaintiff from TJ-283 to TJ-459 unlawfully. Further electric supply to the tubewell of the plaintiff remained unused from 2005 to 03.02.2009. However, the

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Consumer Disputes Redressal Forum, Jagadhri, dismissed the complaint of the plaintiff vide order dated 24.09.2012. It was averred that the said authority had not invited any evidence and misinterpreted the documents on file wrongly and illegally. The said authority had no jurisdiction to decide the validity of the documents relied upon by the plaintiff. The plaintiff requested the defendants several times not to disconnect electric connection of the plaintiff in pursuance of order dated 24.09.2012 of the Consumer Forum however, all in vain. Hence, the present suit.

4. Upon notice, defendants appeared and filed written statement resisting the suit stating therein that the plaintiff was having tubewell connection No.TJ-283. On 30.6.2005, the plaintiff applied for shifting of the same and the estimate was made for Rs.10,393/-. However, as the plaintiff failed to the deposit the aforesaid estimate amount for a period of 2½ years, then in the meantime, new sales circular came into force according to which new estimate was prepared for Rs.1,35,370/- instead of Rs.10,393/-. A letter dated 09.08.2005 was issued to the plaintiff to fulfil the required formalities of defendants but the plaintiff failed to comply with the said letter. He approached the defendants on 17.03.2008 and aforesaid new estimate was given to him for compliance, however, instead of complying with the same, he filed a complaint under section 12 of the Consumer Protection Act and in that case, he deposited amount of Rs.10,393/- vide order dt. 02.01.2009. However on 24.09.2012, complaint stands dismissed in which it was ordered that plaintiff is liable to pay the balance amount of Rs.1,24,977/- after deducting above said amount of Rs. 10,393/- from the

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total amount within one month along with interest @ 6% per annum till the depositing of the same but instead of depositing the above said amount he filed present false suit which is not maintainable. Further it is contended that in case, plaintiff is aggrieved by the order of District Forum then he could have filed an appeal before the State Consumer Forum, Panchkula, but he has not opted the same, hence order dated 24.09.2012 is final which is binding on the plaintiff. All other averments were denied being false. In the end, defendants prayed that suit of the plaintiff be dismissed with heavy costs in the interest of justice.

5. No replication was filed by the plaintiff.

6. On the basis of the pleadings of the parties, following issues were re-framed vide order dated 18.08.2017:-

i) Whether plaintiff is entitled to the relief of Permanent injunction as prayed for?OPP

ii) Whether the plaintiff is entitled to the relief of Mandatory Injunction as prayed for?OPP

iii) Whether the suit of the plaintiff is not maintainable? OPD

iv) Whether the plaintiff has no locus standi to file the present suit?OPD

v) Whether the plaintiff has concealed the true and material facts from the Court? OPD

vi) Relief

7. Upon appraisal of the pleadings and the evidence on record, the ld. trial Court decided issues No. 1 and 2 in favour of the defendants and against the plaintiff; issue No.3 in favour of the defendants and against the plaintiff; issues No. 4 and 5 were disposed of being not pressed; and

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accordingly, vide judgment and decree dated 18.08.2017, the suit of the plaintiff was dismissed. The appeal filed by the plaintiff was dismissed with costs by the Learned Additional District Judge, Yamuna Nagar at Jagadhri vide judgment and decree dated 10.03.2022. Hence, the present second appeal.

8. Learned counsel for the appellant/plaintiff submits that the learned Courts below have wrongly dismissed the suit of the plaintiff without considering the facts of the case and documents produced on the record. Thus, the judgment and decree passed by the Courts below are liable to be set aside as the same are based on conjectures and surmises.

9. No other argument is raised on behalf of the appellant/plaintiff.

10. I have heard learned counsel for the appellant/plaintiff and perused the case file in great detail.

11. It is no longer res integra that as per the law laid down by the Hon'ble Supreme Court in **Laxmi Engineering Works v. P. S. G. Industrial Institute, (SC) : Law Finder Doc Id # 86340,** a civil suit is not maintainable against an order/judgment passed by the Consumer Disputes Redressal Forum. The statute itself provides for appellate mechanism, which has to be adhered to. Accordingly, the ld. lower appellate Court by relying upon the aforementioned judgment of the Hon'ble Supreme Court, held as follows: –

> *"15. Not only this, plaintiff had assailed the memo served upon him by the defendants thereby requiring him to deposit the enhanced estimated amount before the District Consumer Disputes Redressal Forum, Jagadhri by invoking the provisions*

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of section 12 of the Consumer Protection Act which was ultimately dismissed on 24.9.2012 and the plaintiff instead of preferring any appeal against the order passed by the said Forum before State Consumer Disputes Redressal Commission opted to file the instant civil suit and thus, the moot question arises in the instant case is as to whether judgment/order passed by the District Consumer Disputes Redressal Forum can be challenged before the Civil Court. While dealing with such controversy, the Hon'ble Supreme Court of India in case ***Laxmi Engg. Works Vs. P.S.G. Industrial Institute, 1995(3) S.C.C. 583*** *has held that under sections 24, 13(3) and 18 of the Consumer Protection Act, 1986, orders of forums/commissions created under the Act, even if wrong, not open to question in Civil Court. It was further held that the orders of the District Forum, State Commission and National Commission are final as declared in Section 24 and cannot be questioned in a Civil Court, that even if the forum/commission decides the said questions wrongly, their orders may following the procedure prescribed in sub-section (1) and (2) of Section 13 cannot be questioned in a Civil Court.*

16. Therefore, by following the principles laid down in the above cited legal pronouncement, it can be said that the act of preferring a plaint challenging the decision of the consumer forum cannot be entertained.

17. Moreover, proper channel for appeals is prescribed under the Consumer Protection Act. When the legislature provides a statutory mechanism for appeals to a higher court or tribunal, it would not be proper to permit the parties to bypass such statutory remedy provided by the law and instead approach the Civil Court."

12. I find no infirmity with the judgments of the learned Courts below. Even on merits, no ground to interfere in the impugned judgments

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and decrees of the learned Courts below is made out. From a perusal of the order dated 24.09.2012 (Ex.P20) passed by the President, Consumer Disputes Redressal Forum, Jagadhri, it has been specifically mentioned that plaintiff/complainant in the said case, could not produce any such document on the basis of which it can be said that he deposited Rs. 10,393/- within the prescribed time. Further, learned appellate Court non-suited the plaintiff on the ground that proper channel for appeal is prescribed under the Consumer Protection Act; and that the legislature provides a statutory mechanism for appeals to higher forum, it is not proper for the parties to bypass such statutory remedy and approach the Civil Court.

13. Learned counsel is unable to dispute the above position in law.

14. Accordingly, present regular second appeal is hereby **dismissed.**

15. Pending applications, if any, stand disposed of.

04.03.2025 **(NIDHI GUPTA)**
Divyanshi **JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

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