NC: 2026:KHC:18126
WP No. 10168 of 2026

HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO.10168 OF 2026 (GM-CON)

BETWEEN:

SMT.SHYALAJA A
AGED 48 YEARS
W/O LATE SRI AJITH KUMAR D.V
RESIDING AT NO.31211
NIKOO HOMES - 1, BHARATIYA CITY
HEGDENAGAR, THANISANDRA MAIN ROAD
BENGALURU - 560 064

...PETITIONER

(BY SRI. A MAHESH CHOWDHARY, ADVOCATE)

AND:

Digitally signed by CHAITHRA A
Location: HIGH COURT OF KARNATAKA

M/S HDFC ERGO GENERAL
INSURANCE COMPANY LIMITED
19-19, 7TH CROSS ROAD
TMC LAYOUT, 1ST PHASE
J.P. NAGAR, BENGALURU 560 041
REPRESENTED BY MANAGER

...RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF MANDAMUS OR ANY OTHER DIRECTION IN THE NATURE OF MANDAMUS AND DECLARATION DECLARING THAT THE ORDER DATED 10.08.2023 PASSED BY THE IV ADDITIONAL DISTRICT

CONSUMER DISPUTES REDRESSAL COMMISSION, BENGALURU IN C.C.NO.310/2022 ANNEXURE-A IS VOLD, NON EST AND WITHOUT LEGAL EFFECT AND SHALL NOT OPERATE TO BAR OR PREJUDICE THE PETITIONER'S RIGHTS AND CONTENTIONS IN ANY PRESENT OR FUTURE PROCEEDINGS ARISING OUT OF THE SAME CAUSE OF ACTION AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

The captioned writ petition is filed seeking a writ in the nature of mandamus to declare that the order dated 10.08.2023 passed by the IV Additional District Consumer Disputes Redressal Commission, Bengaluru, in C.C. No.310/2022, is void, *nonest* in the eye of law and without any legal effect, and consequently to hold that the said order shall not operate so as to bar or prejudice the petitioner’s rights and contentions in any present or future proceedings arising out of the same cause of action relating to the auction in question.

2. Heard the learned counsel appearing for the petitioner. Perused the pleadings and the material placed on record.

3. The gist of the petitioner's grievance is that the earlier complaint filed before the Consumer Forum in C.C.No.310/2022 came to be dismissed solely on the ground of non-joinder of necessary parties and that the Forum did not adjudicate the dispute on merits. It is the specific case of the petitioner that there was no consideration of the substantive rights of the parties and that the dismissal was confined to a technical defect.

4. It is further averred that, subsequent to the dismissal of the earlier complaint, the petitioner has instituted a fresh complaint on the very same cause of action, this time impleading all necessary and proper parties. However, the petitioner apprehends that the Consumer Forum, while considering the subsequent complaint, is proceeding on an erroneous premise that the

earlier complaint in C.C.No.310/2022 was dismissed on merits and therefore, the second complaint is not maintainable. On that premise, the petitioner seeks a declaration from this Court that the earlier order does not operate as a decision on merits.

5. This Court is of the considered view that the relief sought in the present writ petition is wholly misconceived and cannot be granted in exercise of jurisdiction under Article 226 of the Constitution of India. The prayer, in substance, seeks a declaration regarding the nature and effect of an order passed by a competent Consumer Forum, so as to bind or guide the adjudication in a subsequent proceeding. Such a course is impermissible, as it would amount to this Court pre-empting the consideration of an issue which squarely falls within the domain of the adjudicating Forum before whom the subsequent complaint is pending.

6. It is well-settled that the question as to whether an earlier proceeding was dismissed on technical grounds or on merits, and whether the principles of *res judicata* or estoppel would be attracted, is a mixed question of fact and law which has to be examined by the Forum seized of the subsequent proceedings. When the order passed in C.C.No.310/2022 forms part of the record in the subsequent complaint, the burden squarely rests upon the petitioner–complainant to demonstrate, by placing reliance on the pleadings, the order sheet and the reasoning contained in the said order, that the dismissal was only on account of non-joinder of necessary parties and did not involve any adjudication on merits.

7. The petitioner cannot invoke the extraordinary writ jurisdiction of this Court to secure a declaration or finding on such an issue and thereafter seek to rely upon the same before the Consumer Forum. Entertaining such a prayer would amount to converting the writ jurisdiction into a forum for obtaining anticipatory or advisory findings,

which is clearly impermissible. The statutory Forum must be left free to independently examine the effect of the earlier order and to decide whether the subsequent complaint is maintainable in law.

8. In that view of the matter, it is for the petitioner to discharge the burden of establishing before the Consumer Forum that the earlier complaint was not dismissed on merits but was rejected on a technical ground, and consequently, that the subsequent complaint is not barred by the principles of res judicata or estoppel. All such contentions are left open to be urged before the competent Forum, which shall consider the same in accordance with law, without being influenced by any observations made in this order.

Without expressing any opinion on the merits of the case, the writ petition stands disposed of.

Liberty is reserved to the petitioner to urge all permissible grounds before the Consumer Forum, including

the contention that the earlier complaint in C.C. No.310/2022 was dismissed only on the ground of non-joinder of necessary parties and not on merits.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

NBM
List No.: 1 Sl No.: 23