
(2004) 12 AP CK 0086
In the Andhra Pradesh High Court
Case No : CRP No. 5922 of 2004

N. Nazeer Ahmed

APPELLANT

Vs

Executive Engineer, A.P. Housing Board

RESPONDENT

Date of Decision : 13-12-2004

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Constitution of India, 1950 — Article 227
Consumer Protection Act, 1986 — Section 17

Citation : (2005) 2 ALD 133 : (2005) 2 ALT 1

Hon'ble Judges : D.S.R. Varma, J

Bench : Single Bench

Advocate : Syed Shareef Ahmed, for the Appellant;

Final Decision : Dismissed

Judgement

D.S.R. Varma, J.—This civil revision petition is directed against the order and decree, dated 20-10-2004, passed by the District Forum at Kurnool, dismissing the IA No.356 of 2004 in CD No.38 of 2004, filed, under Order 6 Rule 17 of the CPC seeking permission to amend the complaint, as shown in the petition schedule.

2. For the purpose of deciding the present civil revision petition, the merits of the case need not be gone into.

3. At the threshold itself, I am of the opinion that the present civil revision petition is not maintainable in the light of the language employed u/s 17(b) of the Consumer Protection Act (for brevity "the Act").

4. The provisions of Section 17(b) of the Act are as under:

"Section 17. Jurisdiction of the State Commission :-Subject to the other provisions of this Act, the State Commission shall have jurisdiction,-

(a)

(i).....

(ii).....

(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Forum within the State, where it appears to the State Commission that such District Forum has exercised a jurisdiction not vested in it by law or has failed to exercise a jurisdiction so vested or acted in exercise of its jurisdiction illegally or with material irregularity."

5. From the above provision (b) of Section 17 of the Act, it is clear that the interlocutory orders also can be subjected to scrutiny by the State Consumer Forum, on an application being made.

6. This provision is, in fact, akin to the revisional jurisdiction conferred on the High Court u/s 115 of the Code of Civil Procedure.

7. Having regard to the facts and circumstances, particularly having regard to the fact that an efficacious alternative remedy is provided u/s 17 of the Act, the present civil revision petition filed under Article 227 of the Constitution of India is not maintainable and is liable to be dismissed.

8. In the result, the civil revision petition is dismissed, at the stage of admission, as not maintainable, with liberty to the petitioner to avail an efficacious alternative remedy provided under the Act, by way of revision. However, there shall be no order as to costs.