

(2013) 05 RAJ CK 0092

In the Rajasthan High Court

Case No : Civil Writ Petition No's. 8633 of 2009 and 8632 of 2009

P. Ramesh and Another

APPELLANT

Vs

State Commission Consumer Protection and Others

RESPONDENT

Date of Decision : 13-05-2013

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Consumer Protection Act, 1986 — Section 27, 27A

Citation : (2013) 3 WLN 135

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : Anil Bhandari, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

Vineet Kothari, J.—This order governs disposal of the two writ petitions, since the controversy involved in these cases is common, and the facts of S.B. Civil Writ Petition No. 8633/2011-P. Ramesh vs. State Commission Consumer Protection, Circuit Bench, Jodhpur & Ors. are illustratively taken for the said purpose. By this writ petition, the petitioner, P. Ramesh, working as Collector, Sirohi, at the relevant point of time, has challenged the order Annex. 6 dt. 25.11.2006 and the District Consumer Forum, Jodhpur and the order Annex. 11 dt. 07.05.2008 passed by the learned State Commission Consumer Protection, Jodhpur, dismissing the appeal of the petitioner preferred against the orders dt. 28.04.2008 and 29.04.2008 of the District Consumer Forum; and that the initiation of the contempt proceedings against the present petitioner may be quashed.

2. By the order dt. 25.11.2006, on a complaint filed by the respondent No. 4-Laxman Khetani, against the Urban Improvement Trust, Jodhpur through its Secretary, (UIT, Jodhpur), the learned District Consumer Forum by its order dt. 25.11.2006 directed the UIT, Jodhpur to hand over the peaceful and physical possession of Plots No. 248, 249, 354, 404 and 423, of which, the lease-deed/s

were also executed in favour of respondent No. 4-Laxman Khetani, to the complainant. On failure to do so, the complainant initiated the contempt proceedings u/s. 27 of the Consumer Protection Act, 1986, (for short, hereinafter referred to as "Act of 1986") against the then Secretary of the UIT, Jodhpur, Mr. P.R. Pandat, RAS. In the contempt proceedings u/s 27 of the Act vide order dt. 11.04.2008, the said District Consumer Forum summoned the respondents, namely, P.R. Pandat, Krishan Kunal and Mr. P. Ramesh, since upon the change of the incumbents in the office of the Secretary of UIT, Jodhpur all three were arrayed as respondents, by bailable warrants of Rs. 5000/- each on 28.04.2008. On 28.04.2008, all the three officers, namely, P. Ramesh, P.R. Pandat and Krishan Kunal, were present before the District Consumer Forum; and the charges were framed against them under the contempt proceedings and informed to them, upon which they denied the charges and claimed trial. The learned District Consumer Forum directed day-to-day trial and on next date 29.04.2009 also order was passed by District Consumer Forum for examining the petitioner's witnesses and at the request of the respondents, the matter was adjourned to 07.05.2008; and the respondents were also asked to submit their bail bonds. Aggrieved by these two orders, an appeal was filed by the present petitioner u/s 27-A of the Act against the order dt. 28.04.2008 and 29.04.2008 of the District Consumer Forum before the State Commission Consumer Protection, Jodhpur, which also rejected his Appeal No. 92/2008-P. Ramesh vs. Laxman Khetani, on 07.05.2008. Aggrieved by both the said orders, the petitioner has approached this Court by way of present writ petition.

3. Mr. Anil Bhandari, learned counsel for the petitioner relying upon the decision of Hon"ble Supreme Court in the case of Rajeev Hitendra Pathak and Others Vs. Achyut Kashinath Karekar and Another, and the decision of coordinate bench of this Court in the case of Shankari (Mst.) vs. Board of Revenue & Ors. reported in 2009 (2) DNJ (Raj.) 763, submitted that since no opportunity of hearing was given to the petitioner before passing of these orders on 28.04.2008 and 29.04.2008, the said orders deserve to be quashed by this Court as also since the State Commission also rejected the appeal of the petitioner on 07.05.2008 by a short order, therefore, that order also deserves to be quashed and the very initiation of contempt proceedings against the petitioners, deserves to be quashed by this Court in the present writ petition under Articles 226 & 227 of the Constitution of India.

4. None has appeared on behalf of respondent-complainant though name of Mr. Mahesh Thanvi, has been shown in the cause list.

5. Having heard the learned counsel for the petitioner, Mr. Anil Bhandari, this Court is of the opinion that the interlocutory order/s dt. 28.04.2008 and 29.04.2008 passed by the learned District Consumer Forum, Jodhpur in contempt proceedings initiated on the basis of their alleged non-compliance of the directions given in the main judgment of learned District Consumer Forum dt. 25.11.2006 and also appellate order dt. 07.05.2008, do not require any

interference by this Court in writ jurisdiction.

6. The contempt proceedings appear to have been initiated way-back in the year 2007 vide order-sheet entries of District Forum Annex. 10, produced before this Court and the cognizance of the alleged contempt committed by the respondents-contemnors was taken on 28.04.2007 and the notices were issued to the contemnors arrayed in the contempt petition. Upon change of the incumbents later on, it appears that two other respondents were also added as respondents in the contempt petition but since they did not appear before the learned District Consumer Forum despite several opportunities given, as would appear from the perusal of the these order-sheets; ultimately on 11.04.2008, the District Consumer Forum issued the bailable warrants for securing their presence and soon thereafter all the three officials, namely, P. Ramesh, P.R. Pandat and Krishan Kunal appeared before the District Consumer Forum on 28.04.2008. Once, they have appeared before the learned District Consumer Forum on 28.04.2008, the grievance about the non-receipt of any notice by them, can no longer survive and the respondents (petitioner herein) can very well be presumed to have the knowledge of the contempt proceedings pending against them. In fact, the said District Consumer Forum was compelled to issue the bailable warrants after waiting for a long period of over one year for the respondents to appear in the proceedings and file their defence or reply to the contempt petition.

7. The very purpose of providing a quick remedy to the consumers cannot be permitted to be defeated on the submission of the learned counsel for the petitioner that since no notice was received by the present petitioners before the bailable warrants were issued against him, cannot be accepted. Once they have appeared in the concerned Court or the District Consumer Forum itself, they can be presumed to have the knowledge of the proceedings against them and thereafter they have to take appropriate proceedings or file their defence or reply before the same Court. The said orders dt. 11.04.2008, 28.04.2008 and 29.04.2008 of the District Consumer Forum are reproduced hereunder for ready reference:--

8. These orders clearly show that the petitioners had full opportunity to lead their defence before the District Consumer Forum itself and were also heard before the charge was framed against them and the proceedings are still pending there at that stage. The initiation of these proceedings cannot be said to be without jurisdiction of District Consumer Forum. The judgments relied upon by the learned counsel for the petitioner in the case Rajeew Hitendra Pathak (supra) is of little help to the petitioner here and there is no question of review of any order by the concerned District Consumer Forum itself or by the State Commission, as no such review petition has even been filed by the present petitioners before the concerned Forum. Therefore, the question whether there is a power to review or not, is not the relevant question here.

9. For the grievances raised before this Court, the present petitioner/s had

already filed an appeal u/s 27-A of the Act, 1986, before the State Commission, which too came to be dismissed by the learned State Commission on 07.05.2008 in the following terms:--

"BEFORE

Hon"ble Shri G.S. Hora, Presiding Member

Hon"ble Shri Sikander Punjabi, Member

(Circuit Bench, Jodhpur)

Date of order: 7.5.2008

Learned counsel Shri V.D. Dadhich for

Learned counsel Shri Anil Bhandari, present.

We have considered the arguments of the learned counsel for the petitioner. Proceedings u/s. 27 of C.P. Act have been drawn for noncompliance of the order dt. 25.11.2006.

Order sheets dt. 28.4.2008 and 29.4.2009 do not call for any interference as there is nothing to show that the orders are illegal or against the set procedure of law. Finding no force, we dismiss the appeal.

10. After hearing the learned counsel for the petitioner/s, Mr. Anil Bhandari, this Court also does not find any ground to interfere with these impugned interlocutory orders in the extraordinary writ jurisdiction under Article 226/227 of the Constitution of India by this Court, as the contempt proceedings against the petitioner/s are still pending before the District Consumer Forum itself and whatever valid defence the petitioners want to take in the contempt proceedings, they are free to do so before the District Consumer Forum itself. There is no ground available to the petitioner/s seeking interference of this Court in the present writ petition against such interlocutory orders of a competent Court/ District Consumer Forum. Consequently, both the present writ petitions filed by the petitioners are found to be devoid of any merit and the same are hereby dismissed with no order as to costs. A copy of this order be sent to the concerned parties and the learned Consumer Forums below forthwith.