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ITEM NO.39

COURT NO.4

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).22470/2007

(From the judgement and order dated 01/10/2007 in FA No.512/2007 of The NATIONAL CONSUMERS DISPUTES REDRESSAL COMMISSION, NEW DELHI)

SIRIPURAPU SHANKAR

Petitioner(s)

VERSUS

CONSUMER INT. PROT. RES. ASSCN. & ORS.

Respondent(s)

(With appln(s) for deletion of the name of respondent,impleadment,permission to file additional documents and prayer for interim relief and office report)

WITH

SLP(C) NO. 1289 of 2008

(With appln(s) for directions and deletion of the name of respondent and permission to place additional documents on record and with prayer for interim relief and office report)

SLP(C) NO. 22997 of 2007

(With appln(s) for impleadment and with prayer for interim relief and office report)

SLP(C) NO. 23841-23842 of 2007

(With appln(s) for impleadment and with prayer for interim relief and office report)

Date: 15/01/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE H.L. GOKHALE

For Petitioner(s)
in SLP 22470 and
22997/2007

Mr. Pallav Shishodia, Sr. Adv.
Mr. Aniruddha P. Mayee,Adv.
Mr. K. Subba Rao, Adv.

In SLP 1289/2008

Mr. Hiren Dasan, Adv.

In SLP 23841-42/2007

Mr. S. Ravi Kumar, Adv.

For Respondent(s)

Shri G.V.R. Choudhuri, Adv.
Mr. D. Bharat Kumar, Adv.
Mr. K. Maruthi Rao, Adv.

UPON hearing counsel the Court made the following
O R D E R

SLP(C) No.22470 of 2007

Interlocutory Application No.5 of 2013 filed by Dr. Koduru Sudha Rani and others for impleadment is allowed in terms of the prayer made.

Shri G.V.R. Choudhuri, learned counsel for the respondents and the impleaded parties requests for an adjournment to study the matter with particular reference to liability of the petitioner, who

has claimed that at the relevant time he was not a Director of the company.

The request of the counsel is accepted and hearing of this case is adjourned to 19.02.2013.

SLP(C) No. 22997 of 2007

Interlocutory Application No.4 of 2013 filed by Dr. Koduru Sudha Rani and others for impleadment is allowed in terms of the prayer made.

Shri G.V.R. Choudhuri, learned counsel for the respondents and the impleaded parties requests for an adjournment to study the matter with particular reference to the liability of the petitioner, who has claimed that at the relevant time he was not a Director of the company.

The request of the counsel is accepted and hearing of this case is adjourned to 19.02.2013.

S.L.P.(C) No. 1289 of 2008

The application for deletion of the name of respondent No.2 is allowed in terms of the prayer made.

This petition is directed against order dated 19.11.2007 passed by the National Consumer Disputes Redressal Commission (for short, 'the National Commission'), whereby the appeal filed by the petitioner against orders dated 4.8.1998 and 30.8.2007 passed by State Consumer Disputes Redressal Commission, Delhi (for short, 'the State Commission') was dismissed.

We have heard learned counsel for the parties and perused the record.

The complaint filed by respondent No.1 claiming Rs.19,89,000/- towards the value of goods, freight charges, expenses incurred on trip to South Africa, loss of orders and profit and loss of business, reputation, etc., was partly allowed by the State Commission vide order dated 4.8.1998 and opposite party No.1 - Transbridge Shipping (Pvt.) Ltd. was directed to pay Rs.4,13,500/- towards 50% of the value of the goods and Rs.15,000/- towards deficiency in service.

After about 7 years, respondent No.1 filed Execution Application No.136 of 2005 under Section 27 of the Consumer Protection Act, 1986 (for short, 'the Act') with the following prayer:

"It is, therefore, most respectfully prayed that execution proceedings u/s. 27 of Consumer Protection Act, be initiated against the opposite party and their directors for the recovery of Rs.4,28,500/- along with incidental charges as permitted by this Hon'ble Commission and also warrant of arrest be issued against the Directors of the opposite party No.1 for not complying with the orders passed by this Hon'ble Commission for last number of years in the interest of justice."

For the next 3 years, matter remained pending before the State Commission because notice issued to opposite party No.1 and its Director could not be served. On 30.8.2007, a sum of Rs.2,14,000/- was tendered to the counsel for respondent No.1 in the form of demand drafts and cash. Thereupon, the notice issued against two of the Directors was discharged. The petitioner, who appeared in person, sought and was granted time to pay the balance sum of Rs.2,14,000/-. Similar request made by the petitioner resulted in further adjournment of the execution application. Finally, the State Commission passed order dated 23.11.2007 and granted last opportunity to the petitioner to pay the amount to respondent No.1. At that stage, the petitioner filed an appeal against orders dated 4.8.1998 and 30.8.2007. He also filed an application for condonation of delay.

The National Commission dismissed the appeal vide order dated 19.11.2007.

Learned counsel for the petitioner argued that the petitioner cannot be held liable because at the relevant time, he was not one of the Directors of opposite party No.1 but we are not inclined to entertain his argument because no evidence was produced by the petitioner before the State Commission or the National Commission to show that as on the date of accrual of cause of action he was not a Director of opposite party No.1.

With the above observation, the special leave petition is dismissed. Interim order dated 28.01.2008 passed by this Court shall stand automatically vacated. The State Commission shall now be free to proceed against the petitioner and pass appropriate order.

S.L.P.(C) Nos.23841-23842 of 2007
Interlocutory Application Nos. 3-4 of 2013 filed by Dr. Koduru Sudha Rani and others for impleadment are allowed in terms of the prayer made.

These petitions have been filed for setting aside order dated 25.9.2007 of the National Commission whereby the appeal filed by the petitioners was dismissed with costs and the order passed by the Andhra Pradesh State Consumer Disputes Redressal Commission (for short, 'the State Commission') holding the petitioners liable to pay the amount to the subscribers of chit fund was upheld.

Learned counsel for the petitioners relied upon the information furnished by his clients to the Registrar of Companies in Form No. 32 and argued that after their resignation, the petitioners could not have been held liable to implement the order of the State Commission.

In our view, there is no merit in the submission of the learned counsel because as on the date of accrual of cause of action for refund of the amount deposited by the subscribers, the petitioners were very much Directors of the company.

With the above observation, the special leave petitions are dismissed.

| (Parveen Kr.Chawla)
| Court Master
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| | (Phoolan Wati Arora)
| | Court Master
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