



**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE DEEPAK KHOT

ON THE 28th OF AUGUST, 2025

MISCELLANEOUS PETITION No. 490 of 2023

M/S. MAHINDRA AND MAHINDRA FINANCIAL SERVICES LT.D

Versus

SMT. URMILA SONI

Appearance:

Shri Rajesh Maindiretta- Advocate for petitioner.

Shri Arun Kumar Singh – Advocate for respondent no.1.

Ms. Ritika Jhawar – Advocate for respondent no.2.

ORDER

The present petition has been filed by the petitioner under Article 227 of the Constitution of India being aggrieved by the orders dated 22.02.2012 (Annexure-P/3) and 23.09.2022 (Annexure-P/5) passed by the District Consumer Disputes Redressal Forum, Rewa and the State Consumer Dispute Redressal Commission, Bhopal respectively. Vide Annexure- P/3 dated 22.02.2012, the District Consumer Disputes Redressal Forum has passed an order in an execution proceeding directing the petitioner/non-applicant no.1 to hand over the key and No Objection Certificate (NOC) to the respondent



no.1/applicant. The said order was challenged before the State Consumer Dispute Redressal Commission, Bhopal and the State Commission, vide its order dated 23.09.2022 (Annexure-P/5), has affirmed the order of the District Consumer Forum.

2. It has been contended by learned counsel for the petitioner that this petition is maintainable in light of the judgment passed by the Hon'ble Apex Court in the case of ***Karnataka Housing Board vs. K.A. Nagamani*** passed in **Civil Appeal No.4631/2019**; wherein, the Hon'ble Apex Court has held that any order passed by the State Commission in an appeal arising out of the execution proceeding, no revision lies before the National Commission and therefore, remedy lies with this Court under the supervisory jurisdiction enshrined under Article 227 of the Constitution of India to entertain such an order.

3. It has been submitted that the District Consumer Forum and thereafter, the Appellate Consumer Forum had erred in law and jurisdiction in directing the petitioner/non-applicant to issue NOC and duplicate keys of the vehicle in question. It is further submitted that in the original order allowing the Complaint Case No.238/2007 by order dated 25.11.2008, the Consumer Forum had directed the petitioner/non-applicant no.1 to deposit Rs.44,062/- in the loan account of



the respondent/applicant and it was directed that on payment of difference of amount by the respondent/applicant, the NOC be issued in favor of the respondent/applicant. It is further submitted that no quantum of difference of amount has been decided by the Consumer Forum therefore, immediately after such order was passed a notice dated 28.01.2009 was issued by the petitioner/non-applicant no.1 wherein, the difference of amount to the tune of Rs. 1,78,629/- was demanded from the respondent/applicant in compliance of the order of the District Consumer Forum (Annexure-P/1). In response, it is submitted that no reply to such notice has been given by the respondent/applicant and as such, when the outstanding amount of Rs.1,78,629/- was not paid, the petitioner/non-applicant no.1 was not obliged to hand over the clearance certificate as directed by the District Consumer Forum. The order of the District Consumer Forum passed in the complaint case was conditional that in case the respondent/applicant deposits the difference of amount then only the petitioner/non-applicant no.1 is obliged to issue the NOC. When such payment was not made, the petitioner//non-applicant no.1 did not issue the NOC. It is further submitted that when such NOC was not issued, the respondent/applicant had filed an execution proceeding before the District Consumer Forum. The



District Consumer Forum, vide order dated 22.02.2012 (Annexure-P/3), has decided that the difference of amount is Rs.1045/- and as such, it is found that the said amount had already been deposited. The petitioner/non-applicant no.1 was required to hand over the NOC and duplicate keys of the vehicle.

4. Being aggrieved by the said order, the petitioner/non-applicant no.1 had filed an appeal under Section 27-A of the Consumer Protection Act, 1986 (hereinafter referred to as 'the Act of 1986') before the State Commission. The State Commission, vide order dated 23.09.2022 (Annexure-P/5), has affirmed the order passed by the District Consumer Forum holding that there is no material irregularity or illegality found in the order of the District Consumer Forum. Against these orders, the petitioner has preferred this miscellaneous petition.

5. It is further submitted that the amount of Rs.1,78,629/- is the amount calculated by the petitioner/non-applicant no.1 according to their statement of accounts therefore, if such amount is paid then only the NOC can be issued to the respondent/applicant. The District Consumer Forum as well as the State Commission did not dwell upon the quantum of difference of amount and therefore, has erred in jurisdiction and law thus, both the orders suffers from



jurisdictional error and called for interference by this Court under Article 227 of the Constitution of India.

6. *Per Contra*, refuting the submissions made by the petitioner, learned counsel for the respondent has submitted that there is no adjudication of the amount which has been claimed as the difference of amount by the petitioner in the notice (Annexure-P/2) dated 28.01.2009. The amount of Rs.1,78,629/- has not been decided by the District Consumer Forum as the difference of amount. The difference of amount is only Rs.1045/- as decided by the Consumer Forum in para-12 of the impugned order dated 25.11.2008 (Annexure-P/1). In continuation, in the relief clause of the order, the difference of amount has been directed to be paid by the respondent/applicant. No adjudication of quantum as claimed by petitioner has been done, even the petitioner, who was non-applicant no.1, had not submitted any pleading in regard to the demand of difference of payment to the tune of Rs.1,78,629/-. It was never agitated by the petitioner. No discussion or adjudication of the said amount was done by the Consumer Forum. Only after passing of the order by the District Consumer Forum, the petitioner/non-applicant no.1 has started agitating that the amount of difference is Rs.1,78,629/-. Prior to said order, no adjudication of such amount was ever



done by the District Consumer Forum and therefore, in the execution proceeding, there was no need for the Consumer Forum to go into the quantum which was already done by the District Consumer Forum in a complaint case. Thus, the order passed by the District Consumer Forum is absolutely inconsonance with law. The State Commission has also not found any material irregularity or any error in the order of the District Consumer Forum and therefore, such order was upheld in an appeal vide order dated 23.09.2022 (Annexure-P/5). It is also submitted that this Court under Article 227 of the Constitution of India, having a supervisory jurisdiction, can entertain only such defects which goes to the jurisdiction of the matter.

7. Heard learned counsel for the parties and perused the record.
8. It is evident from Annexure-P/1 dated 25.11.2008 which is an order passed in the consumer complaint case no.238/2007 filed by the respondent/applicant being aggrieved by the inaction of the petitioner/non-applicant no.1 for not providing the NOC and also not adjusting the amount of the discount of excise duty which was granted by the State Government during certain period in the loan account of the respondent/applicant. The petitioner/non-applicant no.1 had filed reply in the said complaint and also the



Law Officer of the petitioner/non-applicant no.1 - Company has been examined before the District Consumer Forum who has submitted his affidavit in the evidence. On the basis of his evidence, the District Consumer Forum, in para- 8, has decided the entire controversy and found that the amount of difference of excise duty which was relaxed by the State Government for buying vehicle during a particular period was not credited in the loan account of the respondent/applicant and therefore, in para-8 such difference of amount has been calculated and directed the petitioner/non-applicant no.1 that subject to deposit of difference of amount, the petitioner shall hand over the NOC to the respondent/applicant. It is further seen that the District Consumer Forum, after due deliberation on the amount which has been alleged by the petitioner i.e., Rs.45,907/- and also the amount of relaxation given by the State Government on excise duty of Rs.44,062/- held that such difference of amount if paid by the respondent/applicant, the NOC should be issued to the petitioner. It is clear from the findings and the discussion of the District Consumer Forum in the order dated 25.11.2008 (Annexure-P/1) that the amount which is disputed between the parties has been decided by the District Consumer Forum. The petitioner/non-applicant no.1 has not agitated any amount said to be the difference of amount



before the District Consumer Forum. When there was no adjudication of such amount, there was no occasion for the Executing Court to go beyond such order which has been passed by the District Consumer Forum vide Annexure-P/1. The District Consumer Forum, on the basis of the order passed by the Forum in a complaint case, has given opportunity to the petitioner/non-applicant no.1 to comply with the orders. When the orders of the District Consumer Forum was not complied with, the District Consumer Forum under Section 27 of the Act of 1986 has adjudicated the matter and directed that in case, such order has not been complied with, the petition shall be dealt with in accordance with law as per the provisions of Section 27 of the Act for non-compliance of the orders passed by the District Consumer Forum.

Being aggrieved by the said order, the petitioner had filed an appeal before the State Commission. The State Commission, after considering the submissions and going through the record, has found that no illegality has been committed by the District Consumer Forum. When the orders of the State Commission has been scrutinized, it is found that the State Consumer Forum, relying on the judgment of the Hon'ble Apex Court in the case of ***Sunder Dass vs. Ram Prakash*** reported in a **AIR 1997 SC 1201**, has held that the Executing



Court cannot pass any order beyond the decree nor can question the legality and validity of such decree. No correction can be done in the said decree unless such decree is declared as nullity. Relying on the said principle, the State Commission has also dismissed the appeal filed by the petitioner/non-applicant no.1.

9. Taking guidance from the judgment of the Hon'ble Apex Court passed in the case of *Karnataka Housing Board* (supra), this Court holds that as there is no remedy available to the petitioner before the Hon'ble Apex Court under Section 27 of the Act of 1986 to challenge the order passed in an execution proceeding and confirmed in appeal under Section 27-A of the Act of 1986, the miscellaneous petition is maintainable.

10. It is also found by this Court that both the Courts below, after analyzing the factual matrix of the case, has found that the difference of amount is only Rs.1045/-. The amount which is stated to be the difference of amount has never been adjudicated by the both the Forums therefore, such amount in the limited supervisory jurisdiction enshrined under Article 227 of the Constitution of India cannot be interfered with.



11. The Hon'ble Apex Court in the case of *Mohd. Yunus vs. Mohd. Mustaqim and others* reported in (1983) 4 SCC 566 and also in the case of *Shalini Shyam Shetty and another vs. Rajendra Shankar Patil* reported in (2010) 8 SCC 329 has laid down the principle that the High Courts, under the supervisory jurisdiction enshrined under Article 227 of the Constitution of India, can only correct the jurisdictional error.

The Hon 'ble Apex Court in the case of *Mohd. Yunus (supra)* has held in paragraph – 7 as under :-

“7. The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is limited "to seeing that an inferior court or tribunal functions within the limits of its authority", and not to correct an error apparent on the face of the record, much less an error of law. In this case there was, in our opinion, no error of law much less an error apparent on the face of the record. There was no failure on the part of the learned Subordinate Judge to exercise jurisdiction nor did he act in disregard of principles of natural justice. Nor was the procedure adopted by him not in consonance with the procedure established by law. In exercising the supervisory power under Article 227, the High Court does not act as an appellate court or tribunal. It will not review or re-weigh the evidence upon which the determination of the inferior court or



tribunal purports to be based or to correct errors of law in the decision.”

Further, in the case of *Shalini Shyam Shetty* (supra), it has been held as under :-

“Article 227 can be invoked by the High Court suo motu as a custodian of justice. An improper and a frequent exercise of this power will be counterproductive and will divest this extraordinary power of its strength and vitality. The power is discretionary and has to be exercised very sparingly on equitable principle. This reserve and exceptional power of judicial intervention is not to be exercised just for grant of relief in individual cases but should be directed for promotion of public confidence in the administration of justice in the larger public interest whereas Article 226 is meant for protection of individual grievances. Therefore, the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline. The object of superintendence under Article 227, both administrative and judicial, is to maintain efficiency, smooth and orderly functioning of the entire machinery of justice in such a way as it does not bring it into any disrepute. The power of interference under Article 227 is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunal and courts subordinate to the High Court.”



“49. On an analysis of the aforesaid decisions of this Court, the following principles on the exercise of High Court's jurisdiction under Article 227 of the Constitution may be formulated:

(a) A petition under Article 226 of the Constitution is different from a petition under Article 227. The mode of exercise of power by the High Court under these two articles is also different.

(b) In any event, a petition under Article 227 cannot be called a writ petition. The history of the conferment of writ jurisdiction on High Courts is substantially different from the history of conferment of the power of superintendence on the High Courts under Article 227 and have been discussed above.

(c) High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. In cases where an alternative statutory mode of redressal has been provided, that would also operate as a restrain on the exercise of this power by the High Court.

(d) The parameters of interference by High Courts in exercise of their power of superintendence have been repeatedly laid down by this Court. In this regard the High Court must be guided by the principles laid down by the Constitution Bench of this Court in Waryam Singh and the principles in Waryam Singh have been



repeatedly followed by subsequent Constitution Benches and various other decisions of this Court.

(e) According to the ratio in Waryam Singh, followed in subsequent cases, the High Court in exercise of its jurisdiction of superintendence can interfere in order only to keep the tribunals and courts subordinate to it, "within the bounds of their authority".

(f) In order to ensure that law is followed by such tribunals and courts by exercising jurisdiction which is vested in them and by not declining to exercise the jurisdiction which is vested in them.

(g) Apart from the situations pointed in (e) and (f), High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

(h) In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly exercised.

(i) The High Court's power of superintendence under Article 227 cannot be curtailed by any statute. It has been declared a part of the basic structure of the Constitution by the Constitution Bench of this Court in



*L. Chandra Kumar v. Union of India*²¹ and therefore abridgment by a constitutional amendment is also very doubtful.

(j) It may be true that a statutory amendment of a rather cognate provision, like Section 115 of the Civil Procedure Code by the Civil Procedure Code (Amendment) Act, 1999 does not and cannot cut down the ambit of High Court's power under Article 227. At the same time, it must be remembered that such statutory amendment does not correspondingly expand the High Court's jurisdiction of superintendence under Article 227.

(k) The power is discretionary and has to be exercised on equitable principle. In an appropriate case, the power can be exercised suo motu.

(l) On a proper appreciation of the wide and unfettered power of the High Court under Article 227, it transpires that the main object of this article is to keep strict administrative and judicial control by the High Court on the administration of justice within its territory.

(m) The object of superintendence, both administrative and judicial, is to maintain efficiency, smooth and orderly functioning of the entire machinery of justice in such a way as it does not bring it into any g disrepute. The power of interference under this article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public



confidence in the functioning of the tribunals and courts subordinate to the High Court.

(n) This reserve and exceptional power of judicial intervention is not to be exercised just for grant of relief in individual cases but should be directed for promotion of public confidence in the administration of justice in the larger public interest whereas Article 226 is meant for protection of individual grievance. Therefore, the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline pointed out above.

(0) An improper and a frequent exercise of this power will be counterproductive and will divest this extraordinary power of its strength and vitality.”

12. On the basis of analysis of facts of the case and enunciation of law cited above, this Court is of the considered opinion that the petitioner has failed to show any jurisdictional error in the orders challenged herein. Accordingly, the petition filed by the petitioner fails and is hereby **dismissed**. No order as to cost(s).

(DEEPAK KHOT)
JUDGE

