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Court : Andhra Pradesh State Consumer Disputes Redressal Commission
SCDRC Hyderabad

Decided On : Oct-17-2012

Judge : Honourable Mr. Justice D. Appa Rao, President, Smt. M. Shreesha, Honourable Member & S. Bhujanga Rao, Honourable Member

Appeal No. : RP.No.36 of 2012 against IA.No.159/2012 in PP.No.33/2006 in CC.No.168/2005, District Consumer Forum, Srikakulam

Appellant : M/S.Creative Constructions, Rep. by Its Proprietor and Another

Respondent : Mallareddy Babu Rao and Others

Judgement :

Oral Order: (Honble Justice Sri D.Appa Rao, President)

1. This revision petition is preferred by the opposite parties against the order of the District Forum, Srikakulam, directing them to deposit the amount of the minors.

2. On the complaint filed by Mallareddy Babu Rao, the husband of R.2, father of R.3 to R.6 and son of R.7 herein, the District Forum by its order dated 27.02.2006 in CC.No.168/2005 directed the opposite parties/revision petitioners herein to execute sale deed for plot Nos. 1 to 4 after receiving the balance of sale consideration @ Rs.12,600/- per cent, and pay compensation of Rs.50,000/- and

costs of Rs.1,000/- within two months.

3. As against the said order, the revision petitioners filed an appeal and also a Writ Petition before the High Court and they were dismissed.

4. Pursuant to the above orders, the respondents 2 to 7 herein, filed P.P.No.33/2006. In the meantime, while the matter is under enquiry, R.2 to R.6 have entered into compromise with the revision petitioners and the same was recorded. However, as the 7th petitioner/decreed holder did not agree, the matter being enquired into. In the meantime, the 7th petitioner filed IA.No.159/2012 for a direction to the revision petitioners to deposit the amount of the minors on the ground that the compromise entered into by the mother of the minors was not binding on them. The District Forum by its order dated 30.05.2012 directed the revision petitioners to deposit the minors share and allot plots of their share and also the share of 7th petitioner, the mother of the deceased complainant, together with costs of Rs.250/-. It was also held that as per the Guardian and Wards Act, the 2nd petitioner therein was not competent to effect the compromise on behalf of the minors against the orders in CC.No.168/2005 without prior permission of the District Court as required under Guardian and Wards Act for effecting the compromise.

5. Aggrieved by the said order, the respondents preferred this revision contending that the District Forum erred in allowing the application. The mother, in fact, was competent to enter into compromise on behalf of the minor children being natural guardian.

6. The petitioners equally moved Transfer Application No.3/2012 before this Commission. In the light of the fact that the petitioners have been making allegations against the District Forum and the orders having been passed contrary to its own compromise recorded by it, the matter has been transferred to the District Forum, Vizianagaram. The District Forum did not raise any objection to transfer the matter, but offered elaborate remarks justifying its action. Both parties were heard and the matter was transferred to the District Forum, Vizianagaram to adjudicate the case in accordance with law.

7. The District Forum could not have directed the revision petitioners to deposit the minors share and also execute sale deed when itself had recorded the compromise entered by them. The learned advocate for the revision petitioners contended that the District Forum intended to justify its action by making out an altogether different plea that was not raised by of the parties. The assertion that the compromise cannot be entered by the mother, a natural guardian and the compromise cannot be recorded without taking permission necessary permission from the District Court has no legal sanction. It is not minors property. This reason is fallacious, contrary to law. We do not intend to comment on this in view of transfer of case to the District Forum, which will adjudicate the matter, uninfluenced by the order of District Forum. At any rate, since the matter has been transferred to the District Forum, Vizianagaram, we are of the opinion that the District Forum, Vizianagaram has to reconsider the questions and pass appropriate orders on the application filed by the 7th petitioner to direct the revision petitioners to deposit the minors share. The District Forum is directed to continue with the proceedings initiated by the 7th petitioner and pass appropriate orders.

8. In the result, the revision petition is allowed. Consequently, the order of the District Forum in IA.No.159/2012 is set aside and the petition is dismissed. No costs.

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