

Reserved on 26.07.2012

Delivered on 10/09/2012

Contempt Application (Criminal) No. 3 of 2012

In Re:**Petitioner**

Vs.

Anil Kumar Jindal and others**Respondents**

Hon'ble Dharnidhar Jha,J.

Hon'ble Ashok Pal Singh,J.

(Delivered by Hon'ble Ashok Pal Singh,J.)

A legal preliminary objection has been raised about non maintainability of the present contempt proceedings, which have been initiated against the contemnor an Advocate, under Section 10 of the Contempt of Courts Act, 1971 (hereinafter referred to as “Act”) regarding the alleged contempt committed by him of the District Consumer Forum, Muzaffarnagar.

We have heard Sri V.M.Zaidi, learned counsel for the contemnor as also learned AGA for the State respondent.

It has been submitted by the learned counsel for the contemnor that Section 10 of the Act empowers the High Court to punish only in respect of contempts of courts subordinate to it and a District Consumer forum is neither a court nor a court subordinate to the High Court. As such the High Court has no jurisdiction to punish a person of any Act of contempt of Consumer Forum and the proceedings initiated against the contemnor by High Court are misconceived. In support of his argument learned counsel has relied upon **Malay Kumar Ganguly Vs. Sukumar Mukherjee (2009) 9 SCC 221** and **Ethopian Airlines Vs. Ganesh Narayan Saboo (2011) 8 SCC 539**.

On the other hand learned AGA has argued in support of the jurisdiction being vested with the High Court to initiate contempt proceedings even in respect of contempt committed of a Consumer Forum. According to him the

Consumer Forum has all the trappings of the Court and as such under Section 10 of the Act is a Court and also subordinate to the High Court.

Before proceeding any further it will be necessary to have a look at the relevant statutory provisions of the Contempt of Courts Act 1971 of the Act. Section 2 of the said Act defines Contempt of Courts.

Civil Contempt is defined by its Section 2(b) as under:-

“2(b) civil contempt ” means wilful disobedience to any judgement, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court ”.

While Criminal Contempt is defined in Section 2(c) as under:-

“2(c) criminal contempt ” means the publication (whether by words. spoken or written, or by signs, or by visible representations, or otherwise) of any matter or the doing of any other act whatsoever which-

- (i) scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court ; or*
- (ii) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or*
- (iii)interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner ;”*

Section 10 of the Act, which empowers the High Court to take cognizance of a contempt in respect of a Court subordinate to it reads as under:-

“Power of High Court to punish contempts of subordinate courts- Every High Court shall have and exercise the same jurisdiction, powers and authority, in accordance with the same procedure and practice, in respect of contempts of courts subordinate to it as it has and exercises in respect of contempts of itself :

Provided that no High Court shall take cognizance of a contempt alleged to have been committed in respect of a court subordinate to it where such contempt is an offence punishable under the Indian Penal Code.(45 of 1860) ”.

In the background of the aforesaid statutory provisions and the submissions made by the learned counsels the questions, which require our considerations are:

- (i) Whether a District Consumer Forum is a Court, and
- (ii) If yes, whether a District Consumer Forum is subordinate to the High Court.

In case the above two questions are answered in affirmative this Court would then be well within its jurisdiction to decide the present contempt proceedings.

At the very outset as regards the first question, it will be pertinent to mention that the expression “Court” has nowhere been defined in the Act. However, certain decisions of the Supreme Court may be referred to derive its correct import in which it has been used in the Act.

In **State of Karnataka Vs. Vishwabharathi House Building Cooperative Society, (2003) 2 SCC 412** Supreme Court took the view that Consumer Forums are not courts but are quasi judicial bodies or authorities or agencies. However, it may be noted that this decision was given in the context where competence of the parliament was under challenge before the Supreme Court on the ground that parallel Courts cannot be established by the Parliament, which may run parallel to Civil Courts.

In **Malay Kumar Ganguly (supra)** relied upon by the present contemnor the Supreme Court considering the nature of proceedings before Consumer Redressal Forum and Commissions held in it para 43 as under :-

“Proceedings before the National Commission are although judicial proceedings, yet at the same time, it is not a Civil Court within the meaning of the Code of Civil Procedure. It may have all the trappings of a Civil Court yet it cannot be called a Civil Court.”

In **Ethiopian Airlines (supra)** also relied upon by the present contemnor in context of Section 86 CPC while considering the nature of proceeding before Consumer Redressal Forum and Commissions, held in its para 66 as under :-

“ In particular CPC specifically refers to the District Courts, the High Court and the Supreme Court and makes little if any reference to other quasi judicial fora like the Consumer redressal bodies at issue here”.

In Union Bank of India Vs. Madras Bar Association (2010) 11 SCC

1 a constitutional Bench of the Supreme Court holding Consumer forum to be a Statutory Tribunal created under a statute made an attempt to make a fine distinction between the tribunals and courts in its para 45 as under :-

“45. Though both courts and tribunals exercise judicial power and discharge similar functions, there are certain well-recognised differences between courts and tribunals. They are:

(i) Courts are established by the State and are entrusted with the State's inherent judicial power for administration of justice in general. Tribunals are established under a statute to adjudicate upon disputes arising under the said statute, or disputes of a specified nature. Therefore, all courts are tribunals. But all tribunals are not courts.

(ii) Courts are exclusively manned by Judges. Tribunals can have a Judge as the sole member, or can have a combination of a judicial member and a technical member who is an 'expert' in the field to which the tribunal relates. Some highly specialised fact-finding tribunals may have only technical members, but they are rare and are exceptions.

(iii) While courts are governed by detailed statutory procedural rules, in particular the Code of Civil Procedure and the Evidence Act, requiring an elaborate procedure in decision making, tribunals generally regulate their own procedure applying the provisions of the Code of Civil Procedure only where it is required, and without being restricted by the strict rules of the Evidence Act.”

It is thus seen that the context in which the aforementioned decisions of **Vishwa Bharti House Building Cooperative Society, Malay Kumar Ganguly, Ethiopian Airlines and Madras Bar Association** were rendered by the Supreme Court, it was considering therein the question as to whether Consumer Forum and Commissions could be termed as 'Court' in its strict sense, within the meaning of Civil Procedure Code.

In Canara Bank Vs. Nuclear Power Corporation Ltd., 1995

Supplementary 3 SCC 81 in its para 26 of the report observed as under:-

“ 26. In our view, the word `court' must be read in the context in

which it is used in a statute. It is permissible, given the context, to read it as comprehending the courts of civil judicature and courts or some tribunals exercising curial, or judicial powers.”

In **Bharat Bank Limited Delhi Vs. Employees of Bharat Bank, AIR 1950 Supreme Court 188**, a five member Bench of Supreme Court, while dealing with the question whether an Industrial Tribunal constituted under the Industrial Tribunal Disputes Act 1947 was a Court for the purpose of Article 136 of the Constitution of India observed that Industrial Tribunal has all the trappings of the court. To be more pertinent it was observed in para 7 of his judgement by Fazal Ali, J. one the of the members as under:

“ Now, there can be no doubt that the industrial tribunal has, to use a well known expression 'all the trappings of a court' and performs functions which cannot but be regarded as judicial. This is evident from the rules by which the proceedings before the tribunal, are regulated. It appears that the proceeding before it commences on an application which in many respects is in the nature of a plaint. It has the same powers as are vested in a Civil Court under the Code of Civil Procedure when trying a suit, in respect of discovery, - inspection, granting adjournment, reception of evidence taken on affidavit, enforcing the attendance of witnesses; compelling the production of documents, issuing commissions, etc. It is to be deemed to be a Civil Court within the meaning of Ss. 480 and 482, Criminal P.C. 1898. It may admit and call for evidence at any stage of the proceeding and has the power to administer oaths. The parties appearing before it have the right of examination, cross examination and re-examination and of addressing it after all evidence has been called. A party may also be represented by a- legal practitioner with its permission.”

In **P. Sarthy Vs. S.B.I. (2000)5 SCC 355**, the Supreme Court was of the view that the term 'court' in Section 14 of the Limitation Act 1963 meant any authority or tribunal having the trappings of a Court.

In **Kihoto Hollohan Vs. Zachillhu (1992) Supplementary 2 SCC 651**, a constitution Bench of the Supreme Court held that all the tribunals may not be courts, but all courts are tribunals.

In **Ram Narayan Vs. Simla Banking and Industrial Co. Ltd., AIR**

1956 SC 614, the Supreme Court held that a tribunal, which exercised jurisdiction for executing a decree would be a 'court' for the purpose of the Banking Companies Act.

In **Brijnandan Sinha Vs. Jyoti Narayan, AIR 1956, Supreme Court 66** considering the question whether a Commissioner appointed under the Public Servant (Enquiries) Act 1850 was a Court within the meaning of Section 3 of the Contempt of Courts Act 1952, which is forerunner of the present Section 10 of the Act, it was held by the Supreme Court that in order to constitute a court in strict sense of the term, an essential condition is that the court should have, apart from having some of the trappings of a judicial tribunal, power to give a decision or a definitive judgement, which has finality and authoritativeness, which are the essential tests of a judicial pronouncement.

In **Virendra Kumar Satyawadi Vs. State of Punjab, AIR 1956, Supreme Court 153**, a Bench consisting of three other learned Judges of Supreme Court presided over by Hon'ble B.K.Mukherjea, Chief Justice, while examining the question as to whether returning officer deciding on the validity of the nomination papers under Section 36(2) of the Representation of People Act, 1951 was a court within the meaning of Section 193 IPC laid down as under:

“ that what distinguishes a Court from quasi judicial tribunal is that it is charged with a duty to decide disputes in a judicial manner and declare the rights of parties in a definitive judgement. To decide in a judicial manner involves that the parties are entitled as a matter of right to be heard in support of their claim and to adduced evidence in proof of it. And it also imports an obligation on the part of the authority to decide the matter of a consideration of evidence adduced and in accordance with law. When a question therefore arises as to whether an authority created by an Act is a Court as distinguished by quasi judicial tribunal, what has to be decided is whether having regard to the provisions of the Act possess all the attributed of the Court.”

In **Thakur Jugal Kishore Sinha Vs. Sitamarhi, Central Cooperative**

Bank Limited, AIR 1967 Supreme Court 1494, the question that arose for consideration before the Supreme Court was as to whether the Assistant Registrar of the Cooperative Societies, an authority under the Bihar and Orissa Cooperative Societies Act, 1935 was a Court for the purposes of Contempt of Courts Act 1952. In the light of the ratio of its previous decisions rendered in Bharat Bank's case, Brijnandan Sinha's case and Virendra Kumar's case, it was held by the Supreme Court therein as under:-

“that to determine whether statutory authority was functioning as a Court, the provisions of the statute concerned have to be looked into”.

After examining the provisions of the Act and the powers, duties and functions of the Assistant Registrar therein, the Supreme Court in the aforesaid decision of Thakur Jugal Kishore Sinha reached to a conclusion that the Assistant Registrar in adjudicating upon a dispute rendered under Section 48 of the Bihar and Orissa Cooperative Societies Act 1935 for all intents and purposes was a Court discharging the same functions and duties in the same manner as a Court of law is expected to do.

In **K.Shamrao Vs. Assistant Charity Commissioner (2003) 3 SCC 563**, the Supreme Court held Assistant Charity Commissioner appointed under Section 5 Bombay Public Trust Act 1950 (as applicable to Karnataka), to be a 'Court' for the purposes of Contempt of Courts Act 1971.

In **Trans Mediterranean Airways Vs. Universal Exports and another (2011) 10 SCC 316**, Apex Court made a strenuous effort to find out the meaning of term 'Court' as given in various renowned dictionaries. Therein it was observed by the Apex Court that in Oxford Advance Learner Dictionary (8th Edition) it has been defined as “ the place where legal trials take place and where crimes, etc, are judged ”. According to Oxford Thesaurus of English (3rd Edition) its synonyms are as under : “ Court of Law,

Law Court, Bench, Bar, Court of Justice, Judicature, Tribunal, Forum, Chancery, Assizes, Courtroom”. The Chamber's Dictionary (10th Edition) has described a court as “ a body of person assembled to decide causes”. In Straud's Judicial Dictionary (5th Edition), the word court has been described as “ a place where justice is judicially ministered, and is derived” and is further observed, “ but such a matter involves a judicial act, which may be brought up on certiorari”.

In the aforesaid decision of **Trans Mediterranean Airways Vs. Universal Exports and another** a question had cropped up before the Supreme Court as to whether National Commission under the Consumer Protection Act was a court. This question was to be decided by the Supreme Court in the context of the Carriage Air Act, 1972 and the Warsaw Convention of 1929. After a careful consideration of aforementioned dictionary meanings of the term ' court' and its earlier decisions rendered in **Union of India Vs. Madras Bar Association (2010) 11 SCC 1, Bharat Bank Limited Vs. Employees (supra), Brijendra Sinha Vs. Jyoti Narayan (supra) and and Canara Bank Vs. Nuclear Power Corporation of India Limited and others,(1995) Supplementary 3 SCC 81** the supreme court observed as under :

“The above dictionary meaning and decision of this Court in the case of Canara Bank and also the observations of the Constitution Bench decision of this Court in Madras Bar Association reveal that word “Court” must be understood in the context of a body that is constituted in order to settle disputes and decide rights and liabilities of the parties before it. “Courts” are those bodies that bring about resolutions to disputes between persons. As already mentioned, this Court has held that the Tribunal and Commissions do not fall under the definition of 'Court'. However, in some situations, the word “Court” may be used in a wide, generic sense and not in a narrow and pedantic sense, and must, in those cases, be interpreted thus.”

In **State of Karnataka Vs. Vishwabharathi House Building Cooperative Society, (2003) 2 SCC 412**, the Supreme Court took the view that

by virtue of Section 25 and Section 27 of the Consumer Protection Act there is a legal fiction created in giving tribunals like the Consumer Forum, the powers of a Court.

Taking into account its aforesaid decision rendered in *State of Karnataka Vs. Vishwabharathi House Building Cooperative Society* and several others decisions, the Supreme Court in **Trans Mediterranean Airways Vs. Universal Exports and another (supra)** bringing Consumer Forums and Commissions established under Consumer Protection Act (referred to as CP Act) within the sweep and ambit of 'Court' in context of Carriage Air Act, 1972 (referred to as CA Act) and Warsaw Convention reached to a further conclusion as under:-

“ The use of the word “Court” in Rule 29 of the Second Schedule of the CA Act has been borrowed from the Warsaw Convention. We are of the view that the word “Court” has not been used in the strict sense in the Convention as has come to be in our procedural law. The word “Court” has been employed to mean a body that adjudicates a dispute arising under the provisions of the CP Act. The CP Act gives the District Forums, State Forums and National Commission the power to decide disputes of consumers. The jurisdiction, the power and procedure of these Forums are all clearly enumerated by the CP Act. Though, these Forums decide matters after following a summary procedure, their main function is still to decide disputes, which is the main function and purpose of a Court. We are of the view that for the purpose of the CA Act and the Warsaw Convention, the Consumer Forums can fall within the meaning of the expression “Court” ”

In view of the aforesaid decisions, it thus becomes clear that the word 'court' used in the Act cannot be interpreted in its narrow and pedantic sense as a Court or Civil Court in its strict sense but has to be interpreted in its wide generic sense providing a greater conspectus to its meaning. We in the present matter are therefore not concerned as to whether Consumer Forum in their precise nature are courts or quasi judicial bodies or authorities or agencies but what we are concerned about is as to whether in the context of Section 10 of

Contempt of Courts Act 1971, they are exercising their main functions as a Court or in other words are having 'the trappings of a Court'. In case these forums are exercising their judicial power akin to that of a Court, there is no reason not to treat them a Court in the context of Section 10 of contempt of Courts Act 1971.

In order that an authority exercising a judicial authority, can be termed to be having 'the trappings of a Court' following tests must be satisfied by such authority:-

(i) Nature of power exercised by the authority. The power entrusted to the authority must be judicial power of the State meaning thereby, the authority must be enjoined to adjudicate between the parties. There must be a lis between the contesting parties presented before the authority for adjudication and decision.

(ii) The source of the power must emanate from the statute and must not be based merely on agreement between the parties. The power must statutorily flow and must continue to inhere in the authority subject to the limitation engrafted by the statute conferring such power.

(iii) The manner of exercise of power must partake of essential attributes of 'Court'.

(iv) The resultant or end product of the exercise of such power by the authority must result in a binding decision between the parties concluding the lis between the parties so far as the authority is concerned. The said decision must be definitive and must have finality and authoritativeness.

In the light of the aforesaid tests let us now consider the relevant statutory scheme of Consumer Protection Act, 1986 under which its authorities function.

The statement of objects and reasons of the Consumer Protection Act 1986 enumerates its necessity to provide better protection of the interest of consumers. The salient feature of the Statement of Objects and Reasons of the CP Act are as under:

“1. The CP Act aims to protect the interests of the consumers and provide for speedy resolutions of their disputes with regard to defective goods or deficiency of service. The Statement of Objects and Reasons of the CP Act are as under:

The Consumer Protection Bill, 1986 seeks to provide for better protection of the interests of consumers and for the purpose, to make provision for the establishment of Consumer councils and other authorities for the settlement of consumer disputes and for matter connected therewith.

2. It further seeks, inter alia, to promote and protect the rights of consumers such as -

(a) the right to be protected against marketing of goods which are hazardous to life and property;

(b) the right to be informed about the quality, quantity, potency, purity, standard and price of goods to protect the consumer against unfair trade practices;

(c) the right to be assured, wherever possible, access to an authority of goods at competitive prices;

(d) the right to be heard and to be assured that consumers interest will receive due consideration at appropriate forums;

(e) the right to seek redressal against unfair trade practices or unscrupulous exploitations of consumers; and

(f) right to consumer education.

3. These objects are sought to be promoted and protected by the Consumer Protection Council to be established at the Central and State level.

4. To provide speedy and simple redressal to consumer disputes, a quasi-judicial machinery is sought to be set up at the district, State and Central levels. These quasi-judicial bodies will observe the principles of natural justice and have been empowered to give relief of a specific nature and to award, wherever appropriate, compensation to consumers. Penalties for non-compliance of the orders given by the quasi-judicial bodies have also been provided.”

The relevant provisions of Consumer Protection Act that are required to be noticed for answering the question before us are Sections 2, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 23, 24, 24B, 25, 27 and 27A.

Section 2 contains definitions wherein amongst others definition of complainant, consumer and consumed disputes have been provided.

Section 7 of the said Act provides a constitution of the State Consumer Protection Council to promote and protect within the State, the rights of the consumers with the objects as quoted (supra).

Section 9 provides for establishment of the consumer dispute redressal agencies making provision for establishment of Consumer Disputes Redressal Forum known as District Forum to be established by the State Government in each district and also making provision for a Consumer Disputes Redressal Commission known as State Commission by every State Government and for making a further provision for a establishment of a National Consumer Disputes Redressal Commission to be established by the Central Government.

Section 10 provides composition of a District Forum, which is to be headed by a person who is, or has been, or is qualified to be a District Judge and consist of two other members.

Section 11 provides pecuniary jurisdiction of the District Forum.

Section 12 provides the manner in which a complaint has to be made before the District Forum.

Section 13 lays down the mode and manner in which complaint received by the District Forum are required to be dealt with. Its Sub-section 3 requires that every complaint shall be heard as expeditiously as possible and endeavour shall be made to decide the complaint within a period of three months from the date of receipt of notice by opposite party, where the complaint does not require

analysis or testing of commodities and within five months where analysis or testing of commodities are required. Its Sub-section 3(B), 4 and 5 requires special attention because of which they are being reproduced as under:-

“(3B) Where during the pendency of any proceeding before the District Forum, it appears to it necessary, it may pass such interim order as is just and proper in the facts and circumstances of the case.

(4) For the purposes of this section, the District Forum shall have the same powers as are vested in a civil court under Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—

(i) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;

(ii) the discovery and production of any document or other material object producible as evidence;

(iii) the reception of evidence on affidavits;

(iv) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;

(v) issuing of any commission for the examination of any witness, and

(vi) any other matter which may be prescribed.

(5) Every proceeding before the District Forum shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Code (45 of 1860), and the District Forum shall be deemed to be a civil court for the purposes of section 195, and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974). ”

Section 14 provides for the directions, which can be issued by the District Forum arriving at a satisfaction of the allegations contained in the complaint about the defects in goods or the deficiency in service.

Section 15 provides for an appeal from the order made by the District forum to the State Commission.

Section 16 provides for composition of the State Commission. According

to which it has to be presided by a person who is, or has been, a Judge of a High Court appointed by the State Government. Its also has to consist of two other members.

Section 17 provides for the jurisdiction of the State Commission including its pecuniary jurisdiction to entertain the complaints.

Section 19 provides for an appeal from a decision of the State Commission to the National Commission.

Section 20 deals with the composition of the National Commission. It is to be headed by a President, who would be a person who is, or has been, Judge of the Supreme Court and appointed by the Central Government in consultation with the Chief Justice of India and also having other members not less than four in number.

Section 21 provides for jurisdiction of the National Commission including its pecuniary jurisdiction to entertain the complaints.

Section 23 provides for a limited appeal to the Supreme Court from an order made by the National Commission i.e. when the same is made in exercise of its original power as conferred by Special Clause (i) of Clause (A) of Section 21.

Section 24 speaks about the finality of orders. According to it every order of a District Forum, State Commission or National Commission shall, if no appeal has been preferred against such order under the provisions of the said Act be final.

Section 24(B) provides for the administrative control of the National Commission over all the State Commission in certain matters and about the administrative control of State Commission over all its District for a within its jurisdiction in those certain matters.

Section 25 provides power of attachment of the property, awarding of damages and for issuing a certificate of any amount due from any person under an order made by District Forum, State Commission or the National Commission through Collector to recover the said amount in the same manner as arrears of land revenue.

Section 27 provides for penalties. Its Subsection (1), (2) and (3) are as under:-

“ Penalties. — (1) Where a trader or a person against whom a complaint is made or the complainant fails or omits to comply with any order made by the District Forum, the State Commission or the National Commission, as the case may be, such trader or person or complainant shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years, or with fine which shall not be less than two thousands rupees but which may extend to ten thousand rupees, or with both:

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974), the District Forum or the State Commission or the National Commission, as the case may be, shall have the power of a Judicial Magistrate of the first class for the trial of offences under this Act, and on such conferment of powers, the District Forum or the State Commission or the National Commission, as the case may be, on whom the powers are so conferred, shall be deemed to be a Judicial Magistrate of the first class for the purpose of the Code of Criminal Procedure, 1973 (2 of 1974).

(3) All offences under this Act may be tried summarily by the District Forum or the State Commission or the National Commission, as the case may be.”

Section 27(A) provides appeal against order passed under Section 27.

So far as the first test of nature of power exercised by Consumer Protection authorities is concerned, it is evident from the aforesaid statutory scheme that the authorities are to exercise compulsory judicial power of the State so as to adjudicate disputes between the parties i.e. Consumers and traders/ Service Providers. These authorities are entrusted to determine the lis between the parties in a judicial manner. As regards the second test, it is also clear from

the aforesaid scheme that the authority and power to adjudicate upon the lis between the parties are entrusted to the authorities therein by the Act and not by the appropriate Government. Thus the source of power to adjudicate so far as these quasi judicial authorities are concerned is none other than the statute itself. The Forums & Commissions are clearly the creatures of the statute invested with the power to exercise the judicial power of the State.

As regards the third test the statutory scheme itself indicates that all the relevant trappings of a 'court' are available to the authorities while deciding a lis between the parties. While Section 13 specifically empowers the authorities to act like any other Civil Court in respect of certain matters. Section 25 & 27 provides teeth to the authorities for getting their orders executed and imposing fines in case of default by a party to the lis. It is also clear from the said scheme that in order to resolve a lis the authorities are to follow a judicial procedure of adjudication which is one of the essential attributes of a Court.

Lastly coming to the fourth test relating to the resultant or end produce, it is clear from the provisions of Section 24 that the authorities enjoin finality of their orders. The orders passed by them attaining finality becomes binding between the parties.

In view of the above, we are of the view that although a District Forum exercising judicial function under the Consumer Protection Act is not a Court within the strict sense of a 'Court' but due to having all the trappings of a 'Court' is a 'Court' in the context of Section 10 of the Contempt of Courts Act.

The first question involved for our consideration is thus decided in affirmative.

As regards the second question involved in the matter, it will be appropriate to peruse the relevant provisions contained in Article 227 of the

Constitution of India, which read is as under :-

“ 227. Power of superintendence over all courts by the High Court.-

(1) Every High Court shall have superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction .

(2) Without prejudice to the generality of the foregoing provision, the High Court may-

- (a) call for returns from such courts;
- (b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and
- (c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein:

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces. ”

It can thus be noticed that except for the Court or Tribunal constituted by or under any law relating to the Armed Forces all Courts or Tribunals lying within the jurisdiction of a High Court will be covered by the general power of superintendence of that High Court.

In **S. K. Sarkar Vs. Vinay Chandra, AIR 1981 SC 723: 1981 Cr.L.J. 283**, a question arose before the Supreme Court as to whether a Board of Revenue functioning under the U.P.Zamindari Abolition and Land Reforms Act was a court subordinate to the High Court as contemplated by Section 10 of the Contempts of Courts Act 1971, whose contempt can be taken cognizance of by the High Court. The Supreme Court observed as follows:-

“ The phrase “ courts subordinate to it” used in Section 10 is wide enough to include above courts, who are judicially subordinate to the High Court, even

though administrative control over them under Article 235 of the Constitution does not vest in the High Court. Under Article 227 of the Constitution, the High Court has the power of superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. The court of Revenue Board, therefore, in the instant case, is a court “subordinate to the High Court” within the contemplation of Section 10 of the Act.”

It will also be appropriate to have a perusal of Rule 4B of the Chapter III of the **Allahabad High Court Rules, 1952** as amended upto date under which allocation of executive and administrative work has been made by the Allahabad High Court for its Administrative Judges each of whom has been assigned the charge of one or more sessions division for a period of one year by its Chief Justice. In the matters listed therein for Administrative Judges matter no.1 reads as under:-

“1. Review of judicial work of Subordinate Courts, Tribunals, District Consumer Forums and all other Special Courts and control of their working including inspection thereof, to record entries in the character rolls of the officers posted in the division assigned to the Administrative Judge.”

(Emphasis supplied by us)

It appears that the above rule by which an Administrative Judge has been empowered to make a review of judicial work or to make inspection of District Forum lying within the Sessions Division assigned to him has been framed by its framers keeping in mind the High Courts' general power of superintendence over all the courts and tribunals given to it under Article 227 of the Constitution of India.

The aforesaid rule also thus lends support to the view that the Court of Consumer Forum and Commissions lying within the territorial jurisdiction of a

High Court are subordinate to the High Court so far as its general power of superintendence over them as provided under Article 227 of the Constitution of India is concerned.

In view of the above we are of the firm view that a High Court has the power of superintendence also over the District Consumer Forums and Commissions lying within its territorial jurisdiction and that being so such District Consumer Forums and Commissions established under the Consumer Protection Act are also covered within the ambit and scope of “courts subordinate to the High Court” in the context of Section 10 of the Contempts of Courts Act 1971.

The second question involved for our consideration is also thus decided in affirmative.

In view of the above discussion we find that the preliminary objection raised by the contemnor about non maintainability of the present contempt proceeding has no force and as such is rejected.

Let the case be listed in the next cause list for further orders.

Order Date: 10 /09 /2012
Abhishek Sri

(Ashok Pal Singh, J.)

(Dharnidhar Jha,J.)