



High Court of Sikkim

Record of proceedings

Cont.Cas(C) No.02 of 2021

Ms. Dechen Doma & Another

Petitioners

VERSUS

Make My Trip India Pvt. Ltd.

Respondent

Date : **09-12-2021**

CORAM : **THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE**

For Petitioner

Mr. Thupden Youngda, Petitioner No.2 in person.

For Respondent

None present.

ORDER

1. The Petitioners' prayers before this Court are as follows;

- (i) *Pass an appropriate order/orders, direction/directions for initiation of the contempt proceedings against the Respondent.*
- (ii) *Pass an appropriate order/orders directing the Respondent to comply with the Judgment dated 05/02/2021 in Consumer Appeal No.4 of 2018, titled Dechen Doma and Another vs. Make My Trip India Pvt. Ltd.*
- (iii) *Pass any other order/orders as this Hon'ble Court may deem fit and proper in the interest of justice.*

2. Petitioner No.2 in person submits that he is seeking a direction from this Court for initiation of Contempt proceedings against the Respondent for wilfully flouting the directions issued by the State Consumer Disputes Redressal Commission, Sikkim at Gangtok, in Consumer Appeal No.04 of 2018 : *Dechen Doma and Another vs. Make My Trip India Pvt. Ltd.* , dated 05-02-2021. That, Section 68 of the Consumer Protection Act, 2019, provides that if no appeal has been preferred against the Order of the State Consumer Disputes Redressal Commission it attains finality. Since no appeal has been filed the Order attained finality, but has been willfully disobeyed by the Respondent, hence the instant Petition.

3. Having heard Petitioner No.2 in person, it may be pointed out that Section 68 of the Consumer Protection Act,



High Court of Sikkim

Record of proceedings

2019 is not applicable in the instant case, the cause of action having arisen in the year 2016, the corresponding provision in the Consumer Protection Act, 1986, which is applicable in the instant case is Section 24. Indeed the Order of the State Consumer Disputes Redressal Commission has attained finality, however, at this juncture, it is relevant to notice the provision of Section 27(1) of the Consumer Protection Act, 1986, which provides as follows;

"27. Penalties.—(1) Where a trader or a person against whom a complaint is made or for 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:"

4. In *State of Karnataka vs. Vishwabharathi House Building Coop. Society and Others* : (2003) 2 SCC 412, a three Judge Bench of the Hon'ble Supreme Court has held as follows;

"58. Furthermore, Section 27 of the Act also confers an additional power upon the Forum and the Commission to execute its order. The said provision is akin to Order 39 Rule 2-A of the Code of Civil Procedure or the provisions of the Contempt of Courts Act or Section 51 read with Order 21 Rule 37 of the Code of Civil Procedure. Section 25 should be read in conjunction with Section 27. A parliamentary statute indisputably can create a tribunal and might say that non-compliance with its order would be punishable by way of imprisonment or fine, which can be in addition to any other mode of recovery.

59. It is well settled that the cardinal principle of interpretation of statute is that courts or tribunals must be held to possess power to execute their own order.

60. It is also well settled that a statutory tribunal which has been conferred with the power to adjudicate a dispute and pass necessary order has also the power to implement its order. **Further, the Act which is a self-contained code, even if it has not been specifically spelt out, must be deemed to have conferred upon the Tribunal all powers in order to make its order effective."**

[emphasis supplied]

5. The National Consumer Disputes Redressal Commission in *Ramesh G. Kohali vs. Shivanand Shanbag* : 2020(1)



High Court of Sikkim

Record of proceedings

CPR 484 : MANU/CF/0017/2020, has also drawn succour from the above ratio of the Hon'ble Supreme Court.

6. In *Emaar MGF Land Ltd. and Others vs. Narinder Kumar Jindal* : MANU/CF/0082/2020, the National Consumer Disputes Redressal Commission while discussing Section 27 of the Consumer Protection Act observed as follows;

"6. Section 27 of the Consumer Protection Act, to the extent it is relevant, provides that where a person against whom a complaint is made, 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 person 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 thousand rupees but which may extend to ten thousand rupees, or with both."

7. Thus, where a party is aggrieved by the non-action of the person/trader/defaulters against whom the Complaint is lodged, after the Order is pronounced, the redressal available to him would be under Section 27 of the Consumer Protection Act, 1986. Relevantly, Section 27A of the Consumer Protection Act, 1986, also provides for appeal against Order passed under Section 27.

8. In view of the foregoing discussions, the Contempt Petition stands dismissed.

9. No order as to costs.

Judge
09-12-2021