

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No.4994/2016

PRABHAKANT SHUKLA

Appellant(s)

VERSUS

RELIANCE COMMUNICATIONS LTD AND ORS.

Respondent(s)

O R D E R

1. The appellant has laid challenge to an order dated 14-01-2013 passed by the National Consumer Disputes Redressal Commission, New Delhi (hereinafter "National Commission") whereby his Revision Petition No.3766/2012 has been summarily dismissed by way of the following order:-

"Heard the petitioner.

In view of the decision of the Apex Court passed in Civil Appeal No.7687 of 2004 "General Manager, Telecom V/s. M. Krishnan & Anr." that a dispute covered by the provisions of Section 7-D of the Indian Telegraph Act shall be determined by way of arbitration, present revision petition is not maintainable.

The same is hereby dismissed."

2. It may be seen that the National Commission held that the Revision Petition was not maintainable in view of judgment of this Court in "General Manager, Telecom V/s. M. Krishnan & Anr."

3. It is fairly pointed out by learned counsel for Respondent No.1 that the above-cited two-Judge Bench decision of this Court has been overruled by three-Judge Bench of this Court in "Vodafone

Idea Cellular Limited vs. Ajay Kumar Agarwal" (2022) 6 SCC 496, para 22 whereof reads as follows.

"We are unable to subscribe to the view which has been adopted in the above decision in M Krishnan(supra). The decision is incorrect on two grounds. First, it failed to recognize that the Act of 1986 is not a general law but a special law that has been enacted by Parliament specifically to protect the interest of consumers. Second, even if it is assumed that the Act of 1986 is a general law, it is a settled position of law that if there is any inconsistency between two legislations, the later law, even if general in nature, would override an earlier special law."

4. Thus, keeping in view the law laid-down by this Court in "Vodafone Idea Cellular Limited vs. Ajay Kumar Agarwal", (supra) the revision petition filed by the appellant deserves to be decided on merits by the National Commission. Consequently, the appeal is allowed; the impugned order dated 14-01-2023 is set aside and the matter is remanded to the National Commission to decide the revision petition afresh and on merits.

5. In all fairness, it may be noted that according to learned counsel for Respondent No.1, the said respondent has gone into bankruptcy, and moratorium under Section 14 of the Insolvency & Bankruptcy Code is operating.

6. All such pleas shall be available to the respondents before the National Commission.

7. It goes without saying if there is no dispute between the appellant and Respondent Nos. 2 and 3, it would not be necessary

for these two respondents to appear and contest the appellant's claim before the National Commission.

8. The National Commission shall decide the revision petition within three months from the date of receipt of a copy of this order.

.....J
(SURYA KANT)

.....J
(J.K. MAHESHWARI)

NEW DELHI
20TH MARCH, 2023.

ITEM NO.39

COURT NO.9

SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCivil Appeal No.4994/2016

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Date : 20-03-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE J.K. MAHESHWARI

For Appellant(s)

Petitioner-in-person

For Respondent(s)

Mr. Mahesh Agarwal, Adv.
Ms. Madhavi Agarwal, Adv.
Mr. E. C. Agrawala, AORMr. Pai Amit, AOR
Mr. Aditya Nayyar, Adv.
Ms. Swati Mittal, Adv.
Mr. Tarang Agrawal, Adv.UPON hearing the counsel the Court made the following
O R D E R

The Appeal is allowed, in terms of the signed Order.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS(PREETHI T.C.)
COURT MASTER (NSH)

(Signed Order is placed on the file)