

ITEM NO.17

COURT NO.10

SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(S). 2764-2771/2022

M/S IREO GRACE REALTECH PVT. LTD.

APPELLANT(S)

VERSUS

SANJAY GOPINATH

RESPONDENT(S)

([ONLY I.A. NO. 81886/2024 IN D.NO. 51115/2023 IS LISTED UNDER THIS ITEM].... [TO BE TAKEN UP AT TOP OF THE BOARD.])

WITH

Diary No(s). 51115/2023 (XVII-A)

(IA No. 84009/2024 - APPLICATION FOR PERMISSION

IA No. 81886/2024 - APPROPRIATE ORDERS/DIRECTIONS)

Date : 15-05-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Appellant(s)

Mr. Ranjit Kumar, Sr. Adv.
Mr. Abhimanyu Bhandari, Adv.
Ms. Rooh-e-hina Dua, AOR
Ms. Dhanakshi Gandhi, Adv.
Ms. Ruchi, Adv.

Mr. E. C. Agrawala, AOR

For Respondent(s)

Mr. Deepak Kumar Khushlani, Adv.
Mr. Santosh Kumar Pandey, AOR

Mr. R. Venkataramani, Attorney General for India
Mr. Santosh Paul, Sr. Adv.
Mr. Chitvan Singhal, Adv.
Mr. Sriharsh Nahush Bundela, AOR

Mr. Amrish Kumar, AOR
Mr. Raman Yadav, Adv.
Mr. Abhishek Kumar Pandey, Adv.
Mr. Kartikey Aggarwal, Adv.
Mr. Mukesh Kumar Singh, Adv.
Mrs. Ameyavikrama Thanvi, Adv.

Mr. Chritarth Palli , AOR

Mr. Abhay Kumar, AOR

Mr. Shagun Ruhil, Adv.

**UPON hearing the counsel the court made the following
O R D E R**

I.A. NO. 81886/2024 IN D.NO. 51115/2023.

1. On the last date of hearing, after perusing the joint affidavit filed by the Presiding Member and Member of the NCDRC, New Delhi and having interacted with them, this Court had expressed a *prima facie* view that the explanation offered in the affidavit was not satisfactory. It was also observed that the chronology of the order sheets in EA/576/2022 (for execution) filed in Consumer Complaint No.773 of 2019 demonstrated that even after notice was issued by this Court on 15th April, 2024, directing that till further orders, operation of the impugned order(s) and further proceedings in the Execution Application No.576 of 2022 filed in the captioned Consumer Complaint shall remain stayed, on the very next date fixed in the matter before the NCDRC, i.e. on 26th April, 2024, the deponents of the affidavit simply adjourned the matter *sine die* without taking any steps to recall the orders passed on 02nd April, 2024 on which date, non-bailable warrants were issued against the Directors of the appellant herein in violation of the order passed by this Court on 01st March, 2024.

2. It was also observed that the order passed by this Court on 01st

March, 2024 was well within the knowledge of the deponents of the affidavit and was duly noticed in the order passed one week down the line, i.e. on 08th March, 2024. As a result, notice to show cause was issued to Mr. Subhash Chandra, Presiding Member and Ms. Sadhna Shanker, Member, NCDRC, as to why contempt of court proceedings be not initiated against them for wilful defiance of the order passed by this Court on 01st March, 2024 and for passing orders on 08th March, 2024 and 02nd April, 2024, despite being cognizant of the order passed by this Court on 01st March, 2024.

3. Pursuant to the aforesaid order, a fresh joint affidavit in reply to the notice to show cause has been filed by the Presiding Member and Member of the NCDRC tendering *inter alia* an unconditional and unqualified apology for “the mistake committed” by them in passing the orders dated 08th March, 2024, 02nd April, 2024 and 26th April, 2024 in the captioned matter.

4. Mr. R. Venkataramani, learned Attorney General who appears for the proposed contemnors submits that the order passed on 08th March, 2024, was not intended as a coercive step against the Directors and that the deponents of the affidavit jointly express their unconditional and unqualified apology admitting that they committed a mistake in passing the said order despite being well aware of the fact that this Court had passed an order just one week before, on 08th March, 2024 granting protection to

the appellant herein. It is further submitted by learned Attorney General that the directions issued by the deponents of the affidavit in the order dated 02nd April, 2024, issuing non-bailable warrants against the Directors of the appellant herein was admittedly a mistake as they failed to note the order passed by this Court on 01st March, 2024.

5. We have some reservations on the aforesaid submission made jointly on behalf of the deponents of the affidavit, particularly in the light of the fact that they had taken notice of the order passed by this Court on 01st March, 2024, when the matter was listed before them on 08th March, 2024, having regard to the fact that the deponents of the affidavit have passed an order on 08th May, 2024 recalling the orders dated 08th March, 2024 and 02nd April, 2024 and have further recalled the directions of adjourning the matter *sine die* and ordered that the Execution Application be listed after the matter is disposed of by this Court. Though unconditional and unqualified regret has been expressed, we are of the opinion that the deponents of the affidavit ought to have been much more cautious particularly while issuing non-bailable warrants against the Directors of the appellant knowing very well that the same would jeopardise their right of life and liberty, though protection had been extended by this Court. Feeling helpless, the appellant had to rush to this Court bringing to its notice the orders passed by the NCDRC on 08th March, 2024 and 02nd April, 2024.

6. We may also note that as per Mr. Ranjit Kumar, learned Senior counsel appearing for the appellant, when the matter was listed before the NCDRC on 02nd April, 2024, the order passed by this Court on 01st March, 2024 was sought to be handed over but was not taken notice of. The stand of the deponents in this regard is that e-filing of the said order on the part of the appellant on the eve of the date when hearing was fixed before the NCDRC, i.e. on 02nd April, 2024, was not brought to the notice of the NCDRC as the same had not been processed by the Registry in accordance with the procedure prescribed for being placed before the Bench.

7. All the same, it cannot be that when an order passed by this Court was mentioned before the Members of the NCDRC and a copy sought to be handed over, the same could not be ignored or brushed aside.

8. Any orders passed by this Court, ought to be respected and fully complied with, in view of the fact that the hierarchy in the judiciary needs to be respected by one in all. In that hierarchy, the orders passed by this Court would bind not just the parties before the NCDRC, but the judicial officers as well.

9. In view of the above, it is deemed appropriate to caution/warn the deponents of the affidavit to be more careful in future and deal with matters with caution particularly when orders of the superior court are placed before them for information and compliance.

10. With these observations, the notice to show cause issued to Mr. Subhash Chandra, Presiding Member and Ms. Sadhna Shanker, Member, NCDRC, is discharged. The personal appearance of the proposed contemnors is dispensed with. The contempt proceedings are closed.

11. It is further directed that the President, NCDRC shall transfer the EA/576/2022 (for execution) filed in Consumer Complaint No.773 of 2019 and other connected matters relating to the appellant, to another Bench for further proceedings with immediate effect.

12. List the main matter on 13th August, 2024.

(Nand Kishor)
Court Master (NSH)

(Geeta Ahuja)
Assistant Registrar-cum-PS