

2023 LiveLaw (SC) 763

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
B.V. NAGARATHNA; J., UJJAL BHUYAN; J.

September 4, 2023

CIVIL APPEAL NOS. /2023 (@ CIVIL APPEAL Diary No(s). 31182/2023)
ARN INFRASTRUCTURE INDIA LIMITED versus HARA PRASAD GHOSH

Consumer Law - Party has right to address final arguments before NCDRC despite not filing written version.

(Arising out of impugned final judgment and order dated 31-03-2023 in MA No. 128/2023 27-10-2022 in CC No. 1456/2019 passed by the National Consumers Disputes Redressal Commission, New Delhi)

For Petitioner(s) Ms. Amrita Sarkar, AOR

For Respondent(s) Mr. Devvrat, Adv. Ms. Swati Setia, AOR

ORDER

Issue notice on the application seeking condonation of delay as well as in the appeals.

There is delay of 249 days in filing this appeal.

Learned counsel for the appellants submitted that since the company was struck off and thereafter has been restored, hence, the delay.

Learned counsel for the respondent vehemently objected to any condonation of delay.

However, for the reasons stated by the appellants we find sufficient cause has been made out to condone the delay. Hence, application seeking condonation of delay is allowed.

Though these appeals are listed for admission, with the consent of learned counsel on both sides, these appeals are heard finally.

The appellants (opposite party) is aggrieved by the impugned order dated 27.10.2022 by which the National Consumer Disputes Redressal Commission, New Delhi (hereinafter referred to as the "NCDRC" for the sake of convenience) in Complaint Case No.1456/2019 refused to grant time to the appellants' counsel who has sought for an adjournment of the case on behalf of the opposite party before the NCDRC and proceeded to consider the complaint on merits and allowed the complaint directing return of the entire amount deposited by the complainant with the opposite party/appellants herein with interest at 9% per annum from the date of the deposit till the actual payment, within a period of two months from the date of the judgment being 27.10.2022. Subsequently Miscellaneous Application No.128/2023 was filed in the complaint, seeking recalling of the order dated 27.10.2022 in the said application. The said application was also rejected. Hence, these appeals.

We have heard Ms. Amrita Sarkar learned counsel for the appellants and Mr. Devvrat, learned counsel for the respondent and perused the material on record.

On perusal of the impugned order, we note that a proxy counsel appeared for the counsel for the appellants/Opposite party herein before the NCDRC, seeking an adjournment of the case. Although the opposite party had not filed its version and may not have participated in the proceedings before the NCDRC, nevertheless, had the right to address final arguments before the NCDRC. In order to do so a short adjournment was

sought by the appellant/opposite party before the NCDRC. However, the NCDRC refused to grant the adjournment for the reasons that no written version had been filed by the appellant/opposite party before the NCDRC. In fact learned counsel for the respondent brings to our notice that even Vakalatnama was not filed on behalf of the appellant/opposite party before the NCDRC. However, the fact remains that the counsel was engaged to seek an adjournment in order to address arguments on merits. The opposite party had the right to do so even in the absence of filing its written version against the complaint. Since the request for adjournment was refused and only the complainant was heard on merits, we find that there has been a violation of the principles of natural justice. On that short ground alone the impugned orders are set aside. The matter is remanded to the NCDRC in order to grant a reasonable opportunity to both sides to address arguments on merits in the said complaint.

Since both parties are represented by their respective counsel, they shall appear before the NCDRC on 20.09.2023 without expecting any separate notices from the NCDRC. On the said date or on any other convenient date, the NCDRC shall hear the learned counsel for the respective parties on the merits of the complaint and dispose of the same in accordance with law.

If the appellant/opposite party before the NCDRC has not filed its Vakalatnama it shall be permitted to do so on or before 20.09.2023.

It is needless to observe that if both parties cooperate with the NCDRC, the complaint may be disposed of in an expeditious manner.

The appeals are allowed and disposed of in the aforesaid terms.

Pending application(s), if any, shall stand disposed of.

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