

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 732 OF 2015

Plastro Plasson Industries Ltd.
Presently known as Finolex Plasson
Industries Ltd., Plot No. 399, URSE,
Tq. Maval, Dist. Pune, through its
Authorized Executive Pushkar Vasant
Khandekar, Age: 64 years,
Occ. Service, R/o as above.

... Petitioner

Vs.

Nitin Tukaram Bhosale,
Age: 50 years, Occ. Agril.
R/o Samudravani,
Tq. & Dist. Osmanabad.

... Respondent

Mr. M.D. Joshi, h/f M.T. Joshi, Advocate for the petitioner.
Mr. Mukul S. Kulkarni, Advocate for the respondent.

CORAM : SUNIL P. DESHMUKH, J.
DATE : 08-06-2016.

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith and heard finally with consent of the parties.

2. Learned counsel for the petitioner refers to various factual aspects involved and particularly to those on the date of the dismissal of appeal before the Maharashtra State Consumer Disputes Redressal Commission in default. The concerned advocate had been hospitalised and had been advised bed rest and as such

could not move and the proxy advocate could not advance arguments as he had not been instructed in respect of the merits of the case.

3. Learned counsel for the petitioner further refers to a couple of orders, one passed in Writ Petition bearing no. 6384 of 2012 and other in Writ Petition No. 397 of 2013 whereunder learned counsel points out that similar impugned orders have been dealt with and set aside. The learned counsel for the respondent vehemently opposes the petition and requests no indulgence be given to the petitioner. However, he is not in a position to dispute veracity of the contentions with respect to factual aspects particularly, inability of the advocate to attend state commission on the date of dismissal of complaint. The rationale as is reflected in the orders relied on in writ petitions nos. 6384/2012 and 397/2013 apply on all fours to the facts of this case. In view of the same, I consider to be expedient to follow the suit of decisions relied on behalf of the petitioners. In view of the same, the following order:

ORDER

- i) The impugned order dated 26-11-2014 is quashed and set aside.
- ii) First appeal No. 456/2010 is restored to its original position on the condition that the

petitioner pays cost of Rs. 5,000/- to the respondent within a period of six weeks from today.

- iii) The cost may be directly paid to the respondent or be deposited in the office of the Maharashtra State Consumer Disputes Redressal Commission, Circuit Bench at Aurangabad. In case it is deposited in the office of Commission as directed above the respondent is entitled to withdraw the same. The parties shall appear before the state commission on 25-07-2016.

4. Rule made absolute in aforesaid terms. Writ Petition disposed of.

(SUNIL P. DESHMUKH)
JUDGE