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09.10.2020
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C.O. 1209 of 2020

With
IA No. CAN 1/2020

(Via Video Conference)

Partha Ghosh
Vs.
Sushanta Bhowmik

Mr. Samrat Mukherjee,
Ms. Ledia Dasgupta
... For the petitioner.

Mr. Parikshit Goswami,
Mr. Mrityunjoy Goswami
... For the opposite party.

In an execution case, the President of Additional Consumer Disputes Redressal Forum, Rajarhat, (New Town), directed the petitioner to appear either personally or through an agent before the Forum on 27th August, 2020 at 10.30 am. The petitioner was also directed to file written version along with the documents, if any, within thirty (30) days from the date of receipt of the notice.

The petitioner says that on 27th August, 2020 the Additional Consumer Disputes Redressal Forum, Rajarhat, (New Town), was closed due to the State-wide lock-down. The matter was therefor fixed on 3rd September, 2020. It is admitted by the petitioner that the copy of the order dated 8th July, 2020 was received from the opposite party as also from the office of the Additional Consumer Disputes

Redressal Forum, Rajarhat, (New Town). In the petition, however, the date on which the petitioner received such order is not spelt out. It, however, appears from the order dated 3rd September, 2020, being the order impugned that the petitioner had received the copy of the order on 11th August, 2020. Thirty days time period as provided in the order dated 8th July, 2020 would start running from 11th August, 2020 when the copy of the order was received by the petitioner. Thirty days period therefor did not expire on 3rd September, 2020 when the matter was again taken up. The petitioner says that the Additional Consumer Disputes Redressal Forum, Rajarhat, (New Town), without affording an opportunity to the petitioner to file its written version had passed the order dated 3rd September, 2020. The petitioner further refers to a subsequent order dated 14th September, 2020, said to have been passed after filing of the revisional application. The petitioner refers to the said order and says that the thirty days period expired on or about 10th September, 2020 but the Additional Consumer Disputes Redressal Forum, on 14th September, 2020 i.e., only few days after did not allow filing of the written version by the petitioner when the petitioner wanted to file the same. The petitioner therefor says to have been prejudiced by having not been afforded the opportunity to file the

written version.

The opposite party submits that long back the opposite party had paid a sum of Rs.15 lakhs on account of consideration money for purchasing a flat. The petitioner being the promoter failed to convey the flat or put the opposite party into possession thereof. The opposite party thereafter was compelled to approach the Consumer Disputes Redressal Forum, wherein an order has been passed directing the petitioner to pay the said sum of Rs.15 lakhs with interest and costs. No appeal has been preferred from the said order. The petitioner has also failed to comply with the order of payment and as such, the opposite party was compelled to put the order into execution. After the execution case has been initiated, the petitioner is attempting to further drag the litigation to the detriment of the opposite party. The opposite party further submits that the order dated 3rd September, 2020 is an appellable order and as such, the revisional application is not maintainable. Moreover further orders have been passed after passing of the order impugned being the subject matter of this revisional application.

It is correct that the order is appellable and as such, the revisional application will not lie. The revisional application fails on the ground that the order impugned is appellable and as such no revision

lies against the same. But so far as the issue of filing of the written version is concerned, the petitioner will be entitled to agitate the same before the competent Forum in accordance with law, if permissible.

Nothing further remains to be adjudicated in the revisional application and the same along with the connected application is disposed of without any order as to costs.

Since I have not called for any affidavits, the allegations contained in the revisional application are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties upon usual undertakings.

(Arindam Mukherjee, J.)