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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1092/2020

G K GAMBIR

..... Petitioner

Through Mr.Sandeep Sethi, Sr. Adv. with
Mr.Vatsala Kak, Adv.

versus

DUSHYANT KUMAR GUPTA

..... Respondent

Through Nemo.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **31.01.2020**

CM No.3640/2020 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 1092/2020 & CM No.3639/2020 (Stay)

1. As this petition involves a limited relief, I do not consider it necessary to issue a formal notice of the same to the respondent.
2. This petition has been filed challenging the order dated 09.12.2019 passed by the National Consumer Dispute Redressal Commission in EA/82/2017 in Consumer Complaint No. 198/2015 titled ***Dushyant Kumar Gupta vs. Today Homes and Infrastructure Private Limited***, restraining the petitioner herein from leaving the country without prior permission of the Commission and directing his personal presence before the Commission on 18.03.2020.
3. The learned senior counsel for the petitioner submits that the original Consumer Complaint was filed only against Today Homes and

Infrastructure Private Limited and the petitioner was not added as an Opposite Party in the said complaint. He further submits that the Impugned Order has been passed on the basis that though the petitioner had been served with the notice issued by the learned Commission on the Execution Application, he was not present before the Commission on 09.12.2019. He submits that the notice issued by the learned Commission was, infact, addressed to the petitioner through Today Homes and Infrastructure Private Limited showing the petitioner to be its Managing Director. The notice was addressed only at the office address of the said company and not at the residential address of the petitioner. He further submits that the petitioner, on becoming aware of the notice having been issued on the application being I.A. No.12861/2019, filed by the respondent, duly appeared before the National Commission through counsel. The order dated 08.08.2019 issuing notice on the application, did not require the personal presence of the petitioner. The National Commission by the Impugned Order has, however, held that as the petitioner was not present, he would remain present on the next date of hearing and also directed that the petitioner shall not leave the country without prior permission of the Commission.

4. As the Impugned Order is premised on the non appearance of the petitioner before the Commission, I find merit in the submission made by the learned senior counsel for the petitioner. The Impugned Order, insofar as it directs the petitioner to remain personally present before the Commission on 18.03.2020 and restrains the petitioner from leaving the country without prior permission of the Commission, is set aside, subject to the undertaking of the petitioner that the petitioner shall be duly represented before the Commission through a counsel on 18.03.2020.

5. It is made clear that this Court has not expressed any opinion on the merits of the submissions made by the learned senior counsel for the petitioner on whether the proceedings are maintainable against the petitioner before the Commission.

6. The petition is disposed of in the above terms.

Dasti.

NAVIN CHAWLA, J

JANUARY 31, 2020/Arya