

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO. 803 OF 2021

Suhas Ratnakar Morey,
 Aged - 43 years, Occ. Service,
 R/o Flat No. 105, Nilkanth Apartment,
 Pandey Layout, Khamla, Nagpur 440022

... **PETITIONER**

VERSUS

Dhanraj Tulshiram Khaparde,
 Age : Major, Occ. Retired,
 R/o Matru Chaya, Plot No. 105,
 Swami Colony, Akar Nagar,
 Katol Road, Nagpur - 440013

... **RESPONDENT**

Shri A.A. Naik, Advocate for the petitioner.
 Shri M.M. Awode, Advocate for respondent.

CORAM : VINAY JOSHI, J.

DATE OF RESERVING THE JUDGMENT : 07/12/2021

DATE OF PRONOUNCING THE JUDGMENT : 23/12/2021

JUDGMENT :

1. **RULE.** Rule is made returnable forthwith. By consent of both the parties, the matter is taken up for final disposal.

2. This writ petition claims exception to the orders dated 06.01.2021, 14.01.2021, 06.05.2021 and 17.08.2021 passed by the State Consumer Disputes Redressal Commission (State Commission), refusing to release the petitioner on bail. Legality of rejection of bail has been questioned under writ jurisdiction by claiming absence of alternate remedy.

3. At the inception, it is necessary to take brief resume of the history of lis. The respondent- Consumer has initially filed a Consumer Complaint No.CC/15/148 against M/s Revati Associates and Infrastructures Pvt. Ltd., through its Director (petitioner) in terms of Sections 12 and 17 of the Consumer Protection Act, 1986 (for short 'the Act'). It was the respondent's case that the petitioner had agreed to sell three plots in total consideration of Rs.65 lakhs. The respondent – Consumer has paid part consideration of Rs.55 lakhs, however, transaction was not materialized. The Consumer had approached to the State Commission for refund of earnest amount of Rs.55 lakhs with interest. The State Commission by allowing the complaint vide its order dated 21.10.2016 directed the petitioner (Developer) to refund an amount of Rs.55 lakhs along with interest. The said order was not challenged by the Developer meaning thereby it has attained finality.

4. Since the Developer has not complied with the order of the State Commission dated 21.10.2016, the Consumer chose to invoke penalty clause under Section 27 of the Act, by filing Execution Application No.17 of 2017, alleging non-compliance of the order dated 21.10.2016. In Execution Application, the Developer failed to attend, hence, non-bailable warrants were issued on which he was released on bail. On 06.01.2021, the Developer appeared (in Execution Application) before the State Commission on which the State Commission has recorded a plea whereby the Developer pleaded not guilty. On the very day, the State Commission took Developer in Magisterial Custody by cancelling his bail for non-compliance of order for a long period.

5. On 13.01.2021, the Developer again applied for bail, however, the State Commission has declined to grant bail vide order dated 14.01.2021. Later on, he applied for bail on 03.05.2021, however, again it was rejected. Likewise, on 13.07.2021, the Developer applied for bail on medical grounds, however, it was once-again rejected vide order dated 17.08.2021. All these orders of rejection of bail passed during pendency of the proceeding under Section 27 of the Act, have been challenged in this Writ Petition.

6. On rejection of last bail application dated 17.08.2021, the Developer has approached to the National Consumer Disputes Redressal Commission (National Commission) vide Execution Appeal No.11 of 2021 questioning rejection of bail. However, on 21.09.2021, the Developer has withdrawn bail application and the matter has been posted by National Commission for consideration on 22.07.2022. The petitioner while challenging impugned orders mainly contended that in Summary Trial under Section 27 of the Act, the State Commission has detained him without jurisdiction. The Developer has paid Rs.25 lakhs to the Consumer, however, in total disregard to the said fact, he was detained in jail. According to the Developer, before adjudicating whether the Developer has committed willful default, the State Commission by per-judging the case, passed the impugned orders.

7. It is the contention that the order of rejection of bail being an interim order, it is not amenable to challenge before the National Commission. To be specific, it is argued that, appeal to the National Commission would lie under Section 27-A(1)(b) only against the final orders passed in the proceeding under Section 27 of the Act. It is argued that since 06.01.2021, the petitioner is behind bars, that too before adjudicating Summary trial filed in terms of Section 27 of the

Act. The Developer has already made substantial payment, therefore, he be released on bail by invoking extra ordinary jurisdiction of this Court.

8. The other side resisted the petition vide its affidavit-in-reply. It is contended that the petitioner has avoided to appear in Execution Application pending before the State Commission. Time and again, non-bailable warrants were issued, however, petitioner was not regular before the State Commission. The outstanding amount has gone above Rs.80 lakhs, however, the petitioner has intentionally avoided to pay. It is submitted that since the petitioner has denied the guilt, the State Commission was well justified in taking him into the custody.

9. Besides that, the respondent has challenged the very maintainability of Writ Petition. It is argued that the orders under challenge are passed in the proceedings under Section 27 of the Act. The Special Act provides a remedy of appeal in terms of Section 27-A of the Act. Particularly, under sub-clause (b) to Section 27-A(1), the orders made by the State Commission are appealable before the National Commission. Already, the petitioner has appealed to the National Commission therefore, the Writ remedy is not available.

Moreover, it is contended that the petitioner has not joined the State Commission/State as a party to the proceedings and therefore, also the petition is not maintainable.

10. Heard both sides exhaustively as well as gone through the reported judgments cited by respective parties. Most of the facts are not in dispute. The respondent-Consumer has raised consumer dispute vide Consumer Case No.CC/15/148, which was allowed by the State Commission directing the Developer to pay sum of Rs.55 lakhs along with interest. Undisputedly, said order has attained the finality. The respondent - Consumer has not applied under Section 25 of the Act, for enforcement of order dated 21.10.2016, however, preferred to invoke penalty clause in terms of Section 27 of the Act, vide Execution Application No.17 of 2017. It is not in dispute that since 06.01.2021, petitioner – Developer is in jail in pending Execution Application. Moreover, the record indicates that though the petitioner-Developer has challenged impugned bail rejection orders before the National Commission, however, the bail application was came to be withdrawn.

11. Learned Counsel for the petitioner made a statement upon instructions that the petitioner undertakes to withdraw the proceedings

i.e. Execution Appeal No.11 of 2021 pending before the National Commission, which is adjourned to 22.07.2022. Moreover, he has already withdrawn bail application filed before the National Commission.

12. Since the very maintainability of writ petition has been challenged, I take up said issue first for consideration. Learned Counsel for the respondent led stress on the express provision of Section 27-A of the Act, which provides an Appeal to the National Commission in terms of Section 27-A(1)(b) against the order passed by the State Commission . He would submit that admittedly, impugned orders are passed in Execution Application filed under Section 27 of the Act. Therefore, despite express remedy of appeal before the National Commission, Writ Petition has been filed which is not maintainable. In support of said contention, the respondent has relied on the decision of the Supreme Court in case of *Cicily Kallarackal vs. Vehicle Factory (2012) 8 SCC 524* and decision of Calcutta High Court in case of *National Insurance Company Ltd., vs. Consumer Disputes Redressal Forum 2014 LawSuit (Cal) 1075*.

13. Learned Counsel for the respondent would submits that when

adequate and efficacious alternative remedy is provided under the Act, the Writ Petition is not maintainable. In this regard, he relied on the decisions of the Supreme Court in case of *Dhruv Green Field Ltd. vs. Hukam Singh and ors. (2002) 6 SCC 416*. The said case pertains to the jurisdiction of Civil Courts to try all suits of civil nature and the general principle that the bar against jurisdiction of the Civil Courts shall not be inferred unless alternative remedy is provided. The said decision does not relate to the facts of this case. Then he relied on the decision of the Supreme Court in case of *Binny Ltd. and anr. vs. V. Sadasivan and ors. (2005) 6 SCC 657*, which pertains to the maintainability of writ remedy against private parties. The said decision relates to writ of mandamus which has no relevance to the case in hand in view of the issue involved.

14. On the other hand, the petitioner primely canvassed that impugned orders are of interim nature which are not amenable to the appeal to the National Commission as provided under Section 27-A(1) (b) of the Act. He would submit that the said provision is specifically meant for appeals against the final order passed under Section 27 of the Act. Secondly, he would submit that even if alternate remedy is available, the writ Court can entertain the petition when it relates to

violation of fundamental right of life and personal liberty.

15. There is no dispute that the State Commission vide order dated 21.10.2016 directed the Developer to pay Rs.55 lakhs along with interest at the rate of 9% per annum, which has attained finality. Since the said order was not complied, the respondent-Consumer has invoked the penalty clause under Section 27 of the Act by filing Execution Application. In said Execution Application, the Developer was taken into custody on 06.01.2021 by State Commission. In turn, Developer has filed bail applications which were repeatedly rejected on 06.01.2021, 14.01.2021, 03.05.2021 and 17.08.2021. Resultantly, the petitioner-Developer is in jail. The challenge in the writ petition is to the orders of rejection of bail.

16. In the light of above position, maintainability of writ petition is in question. The respondent primely contended that the impugned orders are passed in the proceedings under Section 27 of the Act, for which a provision of appeal to the National Commission, has been made under Section 27-A(1)(b) of the Act. It is the submission that without invoking statutory remedy of appeal, the petitioner has filed Writ Petition, which is not maintainable. In order to impress said

submission, first reliance is on the decision of the Supreme Court in case of *Cicily Kallarackal vs. Vehicle Factory (2012) 8 SCC 524*. In said case the Supreme Court has ruled that when statutory appeal is provided under Section 27-A(1)(c) of the Act to the Supreme Court against the order of National Commission, the High Court cannot exercise writ jurisdiction to bypass the provision of statutory appeal. Following the said dictum, the Calcutta High Courts reiterated in above referred case that the orders of the State Commission are appealable before the National Commission and therefore, it is not proper to entertain Writ Petition against the order of the State Commission. In case of *Cicily* referred (*supra*) the orders of the State Commission were challenged to the National Commission and then instead of resorting remedy as provided under Section 27-A(1)(c) of filing of appeal to the Supreme Court, it was challenged in Writ jurisdiction before the High Court. In said context, it has been held that when the statutory remedy of appeal is provided under Section 27-A(1)(c), it is improper to invoke writ jurisdiction.

17. In case at hand, it is the petitioner's stand that the impugned orders are merely an interim orders and therefore, the provisions of Section 27-A(1)(b) of the Act, would not apply. In above referred case

of *Cicily (supra)* there was no dispute about nature of order, but the orders passed by the National Commission were simply challenge in writ jurisdiction.

18. The respondent-Consumer also relied on the decision in case of *Bajirao s/o Dagduji Sirsat vs. Sanjay Prakashchand Kothari and ors. [2015(1) Mh.L.J.]* wherein this Court has equally expressed that the Writ Petition against the order of State Commission is not maintainable since the Appellate Forum i.e. National Commission is available. It reveals that in said decision, orders passed by the District Forum were challenged to the State Commission and orders of State Commission were challenged in writ jurisdiction instead of raising challenge to the National Commission. Likewise, in said case also there appears to be no dispute whether the orders challenged therein were interim or final order.

19. It is the petitioner's specific stand that impugned orders are purely of interim nature about rejection of bail. According to the petitioner, the remedy of appeal provided under Section 27-A(1)(b) of the Act would apply only to the challenge of the final order passed by the State Commission under Section 27 of the Act. In this regard,

learned Counsel for the petitioner took me through the language employed under Section 27-A of the Act which reads as below -

“27A. Appeal against order passed under Section 27

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, (2 of 1974), an appeal under Section 27, both on facts and on law, shall lie from;

(a) the order made by the District Forum to the State Commission;

(b) the order made by the State Commission to the National Commission; and

(c) the order made by the National Commission to the Supreme Court

[(2)]...

[(3)]...

20. It is submitted that the final order passed under Section 27 would be in the nature of imposing punishment or in the alternative of dismissal. Certainly, such final orders are amenable to challenge in appeal before the National Commission as contemplated under Section 27-A(1)(b) of the Act. According to the petitioner, the statute has specifically employed the word “the order” in clause (b) which means that the final order. It is argued that clause (b) has not coached as “any order” made by the State Commission. Learned Counsel for the

petitioner took me through the Black's Law Dictionary to emphasize the dictionary meaning of the article "the". It says that an article "the" particularizes the subject spoken of as opposed to indefinite or generalizing force like "a" or "an". In this regard, the petitioner has relied on the decision of the Supreme Court in case of *Shri Ishar Alloys Steels Ltd. V. Jayaswals NECO Ltd AIR 2001 SCC 1161* wherein the Supreme Court while expressing term "the bank" stated that the term "the" denotes particular thing or specifies a particular bank.

21. True, clause(b) as reproduced above, never says in generalized manner that "all orders" or "any orders" made by the State Commission, appealable to the National Commission. The phraseology used by the statute is about "the order" made by the State Commission. Certainly, the plain language used by the statute has to be read as it stands. The plain meaning of the word provided under clause (b) conveys that it relates to the final orders made by the State Commission, which are made appealable to the National Commission.

21. Learned Counsel for the respondent while resisting said submission contended that as per Section 27 of the Act, any orders made by the District Forum or the State Commission or the National

Commission on its breach are made punishable under the Act. He would submit that since any orders passed by the authority are made punishable, the same analogy is to be applied while construing the appellate provision of Section 27-A of the Act. It is not possible to accept said submission because, in Section 27 of the Act, specific term “any order” has been employed whilst under Section 27-A the term “the order” has been used. There was no difficulty in construing Section 27-A in the manner by stating “any orders” so as to encompass all the orders passed by various Forums under Section 27 of the Act. However, the specific language rather definite language used by the statute conveys that the final orders passed under Section 27 of the Act, are appealable as per the Forum provided under Section 27-A of the Act.

22. It is a well settled principle in law that the Court cannot read anything into a statutory provision which is plain and unambiguous. A statute is an edict of the legislature. The language employed in a statute is the determinative factor of legislative intent. The first and primary rule of construction is that the intention of the Legislation must be found in the words used by the Legislature itself. The question is not what may be supposed and has been intended but what has been said.

23. There is no dispute that the Execution Application filed under Section 27 of the Act, is still pending. Apparently, the impugned orders regarding rejection of bail, are not final orders, but, are orders in the interim form. Therefore, I am of the view that the impugned orders being of interim nature would not fall within the ambit of Section 27-A of the Act, which provides a definite appellate form. Since, no appeal is provided against the interim orders, certainly, the writ jurisdiction can be invoked. In view of above analysis of Section 27-A of the Act, being distinct fact decisions cited by the respondent would not assist him in any manner.

24. The learned Counsel for the petitioner would further submit that even if, alternate remedy is available still in certain circumstances, writ jurisdiction can be invoked by the High Court. In this regard reliance is placed on the decisions of the Supreme Court in case of *Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai and ors. AIR 1999 SCC 22* wherein it is observed that law as to the jurisdiction of the High Court in entertaining a Writ Petition under Article 226 of the Constitution, in spite of the alternative statutory remedies, is not affected, especially in a case where the authority against whom the Writ is filed is shown to have had no jurisdiction or had purported to

usurp jurisdiction without any legal foundation. Particularly, my attention is invited to paragraph 15 of the judgment which reads as below :

“15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a Writ Petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order of proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case law on this point put to cut down this circle of forensic Whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.”

25. When there is a question of violation of fundamental rights, certainly, the technicalities should not come in the way of safeguarding fundamental rights. The Supreme Court in case of **Bikramjit Singh vs. State of Punjab (2020) 10 SCC 616** expressed that (para 40) in a

matters of personal liberty, we cannot and should not be too technical and must lean in favour of personal liberty. It is apparent that the orders under challenge are of interim nature for which there is no express appellate provision, hence the writ jurisdiction is very much available to this Court.

26. The respondent also took the objection that the State Commission is not made party to the proceeding. Since the petitioner has not asked any relief against the State Commission, which acts as a Court, it is not necessary to make adjudicating authority as a party. In any sense, the respondent-Consumer is a contesting party who has contested this petition tooth to nail. In view of that the said objection does not carry substance.

27. Reverting to the facts, it reveals that in Execution Application time to time non-bailable warrant was issued against the petitioner, however it was cancelled on appearance. Though there are repeated orders about rejection of bail, however, first order dated 06.01.2021 under which the petitioner was taken into custody, assumes significance. In this regard it is necessary to see as to under which circumstance, the order of rejection of bail and taking petitioner in

custody (on 06.01.2021), has been made. The record indicates that Execution Application was scheduled on 16.12.2020 for consideration. The order dated 16.12.2020 passed by the State Commission indicates that on that day the petitioner had filed application seeking exemption from appearance. After considering the reasons, the State Commission was pleased to grant short time and directed petitioner to remain present on 06.01.2021. The said order (16.12.2020) indicates that on earlier date, non-bailable warrant was issued, however, the petitioner had furnished bail. It means that on 16.12.2020, the petitioner was on bail and the State Commission directed him to remain present on 06.01.2021.

28. In such a background, first order of rejection of bail dated 06.01.2021, came to be passed. The said order indicates that on that day the petitioner appeared in Execution Application before the State Commission. It may be recalled that on earlier date i.e. on 16.12.2020, the petitioner's exemption application was entertained and the State Commission directed him to appear on 06.01.2021. In other words, the petitioner was on bail on 06.01.2021, when he appeared before the State Commission. On that day, the State Commission has recorded particulars of the offence i.e. recorded petitioner's plea. In response, the

petitioner pleaded not guilty and obviously, claimed to be tried. In the circumstances, the respondent's Advocate made a submission before the State Commission that since the petitioner has not complied the order under Execution, it is necessary to take him into custody. It was brought to the notice of State Commission that the petitioner in past continuously remained absent and repeatedly warrants were issued as well as outstanding amount is huge. On aforesaid submission, the State Commission has cancelled petitioner's bail and remanded him to Magisterial custody till final hearing of execution proceeding. The State Commission also observed that looking to the fact that the accused has pleaded not guilty, it is necessary to cancel his bail and to take him in custody. The subsequent orders of rejection of bail dated 14.01.2021, 06.05.2021 and 17.08.2021 are similarly passed.

29. Learned Counsel for the petitioner has submitted that the procedure adopted by the State Commission is wholly unjustifiable. Before adjudicating the complaint under Section 27 of the Act, the State Commission has ventured into taking the petitioner in custody. It is submitted that a summary trial is contemplated under Section 27 of the Act for non-compliance of the order. No sooner the petitioner pleaded not guilty, the State Commission without proceedings with the

trial, took him into the custody which is violative of right to liberty. Learned Counsel for the petitioner submitted that the proceeding under Section 27 is akin to the execution of money decree. The issue to be decided in summary trial is to see whether the petitioner has made willful disobedience of the order. In order to substantiate said contention, the petitioner relied on the decision of the Supreme Court in case of ***State of Karnataka vs. Vishwabharathi House Building Coop. Society and ors. (2003) 2 SCC 412*** wherein it is expressed that (para 58), the provisions of Section 27 of the Act is akin to Order XXXIX Rule 2-A of the Code of Civil Procedure or provision of the Contempt of Courts Act or Section 51 read with Order XXI Rule 37 of the Code of Civil Procedure. Moreover, by relying on the decision of the Supreme Court in case of ***Jolly George Varghese and anr. vs. The Bank of Cochin (1980) 2 SCC 360***, it is argued that unless there is a willful failure to pay in spite of sufficient means, to cast a person in prison violates Article 21 of the Constitution of India. Besides that, the petitioner also relied on the decision of ***Arnab Manoranjan Goswami vs. State of Maharashtra and ors. (2021) 2 SCC 427*** to contend that while exercising inherent power under Article 226 read with 482 of the Code of Criminal Procedure, this Court can exercise its jurisdiction to grant interim bail.

30. Sub-clause(3) to Section 27 of the Act states that all the offences under the Act may be tried summarily by the appropriate Forum. It means that a summary trial is contemplated under Section 27 of the Act. The State Commission has recorded a plea and when the petitioner pleaded not guilty, he was taken into the custody. It needs to be noted that the State Commission after considering past record and particularly non-compliance of order took him into custody by cancelling the bail. It prominently emerges that the State Commission has not cancelled the bail of the petitioner on the ground of violation of bail condition, but on the ground that he has pleaded not guilty and there is non-compliance of the order.

31. Notably, on 06.01.2021, neither non-bailable warrant was standing against the petitioner nor he was brought before the State Commission in execution of non-bailable warrant. It is apparent that on earlier date the State Commission i.e. on 16.12.2020, has directed the petitioner to appear on adjourned date i.e. on 06.01.2021. As such the petitioner has *suo moto* appeared before the State Commission on 06.01.2021 to face the trial. Despite that the State Commission has taken him into the custody, looking to his past record, as well as mainly non-compliance of the order. One can understand taking petitioner in

custody, if he jumps the bail or has been brought under Execution of warrant. Generally in that eventuality, the defaulter are being taking into custody to secure his presence for trial. However, impugned order dated 06.01.2021 nowhere spells that there was likelihood of petitioner's abscondence. Only considering his past antecedents and particularly, non-compliance of the order, his bail was cancelled.

32. On 06.01.2021, there was no warrant, but the petitioner who was on bail has *suo moto* appeared before the State Commission. The petitioner has right to deny the guilt which he has exercised to contest the summary trial. Since he denied the guilt, without conducting trial, he was taken into custody. Yet trial has to be conducted in which whether it was willful default or despite sufficient means, the petitioner avoided to pay was to be adjudicated. The situation is such that if the petitioner pleads guilty then certainly he would have been punished, and in the alternative when he pleaded not guilty still without proceedings with the trial he was taken into custody. The said approach of State Commission was wholly against the principles of natural justice. Before recording the finding that the petitioner has deliberately avoided to pay or he is willfully default, has been incarcerated and languishing in jail from 06.01.2021.

33. Entire note-sheet of the proceedings pending before the State Commission has been produced. It reveals that till date there is no progress in the proceedings, but dates are given. Near-about period of one year has lapsed, however, though the petitioner was in the Magisterial custody still there is no progress which is quite amazing. Section 27 of the Act provides maximum sentence of imprisonment which may extent up to three years. Without holding trial, petitioner is kept behind bars for near-about one year, therefore, it is a fit case to exercise writ jurisdiction since there is violation of personal liberty.

34. Learned Counsel for the respondent has submitted that the petitioner has already challenged the impugned orders of rejection of bail before the National Commission by way of appeal to Execution No. 11 of 2021. Since the said appeal is pending, this petition is not maintainable. In response, the learned Counsel for the petitioner would submit that since the appeal against the interim order is not maintainable, they did not proceeded before the National Commission. Upon instructions, learned Counsel for the petitioner made a statement that the petitioner is withdrawing the said appeal which was placed for consideration on 22.07.2022. According to the petitioner, he has equally applied for bail in Execution Application No. 11 of 2021,

however, since he chose to invoke the writ jurisdiction, he has withdrawn bail application. In this regard he has produced a copy of order dated 21.10.2021 to show that the said application came to be dismissed as withdrawn. The other side has not disputed that the said order pertains to withdrawal of the bail application. Therefore, I do not find any impediment in entertaining the writ petition.

35. I may note one another circumstance that as per submission, the due amount has become to the tune of Rs.80 lakhs approximately. It is not in dispute that till date, the petitioner has paid Rs. 25 lakhs to respondent-consumer and deposited Rs.5 lakhs in this proceedings. Certainly, the said aspect needs to be taken into account while entertaining the petition. Having regard to all above, I find that the State Commission has pre-judged the matter and before concluding the trial, incarcerated the petitioner for the reasons of non-payment of ordered amount. Certainly, the petitioner can be kept behind bars, if, he violates bail conditions. However the order dated 06.01.2021 itself, speaks that on that day, the petitioner himself appeared and as he denied the guilt, he was placed in jail. The entire approach of State Commission of keeping petitioner behind bars and adjourning the matter for a long period of one year, is quite disturbing. In the

circumstances, I am inclined to entertain writ petition by setting aside the impugned orders and direct the State Commission to pass appropriate order of releasing the petitioner on bail. It is made clear that in future, if the petitioner remain absent, the State Commission is at liberty to take appropriate steps in its discretion to secure his presence or pass necessary orders. In view of that following order is passed :

ORDER

- (a) The Writ Petition stands allowed and disposed of.
- (b) Impugned orders dated 06.01.2021, 14.01.2021, 06.05.2021 and 17.08.2021 are hereby quashed and set aside.
- (c) The State Commission is directed to pass appropriate order of bail by imposing suitable conditions within three working days from the receipt of this order.
- (d) It is clarified that in case of petitioner's further breach, the State Commission is at liberty to take appropriate steps in accordance with law.

36. Rule is made absolute in aforesaid terms with no order as to costs.

CRIMINAL APPLICATION NO. 175 OF 2021

Heard.

2. This is an application filed by the respondent (consumer) seeking withdrawal of the amount of Rs.5 lakhs which has been deposited by the petitioner (developer) during the pendency of the Writ Petition.

3. The learned Counsel for the petitioner fairly gave no objection for withdrawal of the amount. In view of that application is allowed and disposed of. The respondent – Dhanraj Tulshiram Khaparde is permitted to withdraw the amount of Rs. 5 lakhs deposited in this Court along with the accrued interest, if any.

JUDGE

Trupti