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

% Judgment delivered on: 15.12.2022

+ CM(M) 1381/2022 & CM APPL. 53465/2022

TDI INFRASTRUCTURE LTD.

..... Petitioner

versus

COL. KARAN BHAGAT

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Ms. Kanika Agnihotri, Advocate with Mr. Ankit Khera, Advocate.

For the Respondent : None.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

1. Despite directions passed on 12.12.2022 Court Notice could not be served upon Ms. Vandana S. Bhandari, learned counsel appearing for the respondent before the NCDRC ('the Commission') for want of address.
2. Ms. Kanika Agnihotri, learned counsel appearing for the petitioner submits that as directed, an email dated 14.12.2022 at 03:58 PM, attaching therewith, a copy of the instant petition, was served upon Ms. Vandan S. Bhandari at 'vanduadv06@rediffmail.com' and that it has not bounced back.
3. Copy of the email showing service sent by Ms. Agnihotri, is taken on record.
4. Despite information being shared with the counsel for the

respondent, neither the counsel nor the respondent appeared today.

5. The petitioner challenges the impugned order dated 25.10.2022, whereby the learned Commission had, while granting adjournment on the request of the proxy counsel appearing for the counsel for the petitioner, directed that the petitioner deposits the entire awarded amount with the State Consumer Disputes Redressal Commission ('SCDRC'), Delhi, within two weeks from the date of the impugned order.

6. Ms. Agnihotri submits that the Commission while granting adjournment, had directed the deposit of the entire awarded amount overlooking the order dated 28.12.2021, whereby the execution proceedings in Execution Application No. 95/2021 pending before the Delhi State Consumer Disputes Redressal Commission, New Delhi, was directed to remain stayed without passing any additional order in respect of the amount deposit.

7. She further submits that in case the Commission was of the opinion to direct the petitioner herein, to make any deposit, it was incumbent upon the Commission to have given an opportunity to the petitioner to address arguments on such deposit.

8. Ms. Agnihotri submits that a vital right, which arose in favour of the petitioner, has been denied resulting in grave prejudice to the petitioner.

9. In view of the aforesaid submissions, this Court is of the opinion that in case the Commission was of the considered opinion, that any such amount of the decree ought to have been deposited, the provisions akin to Order 41 Rule 5 of CPC, 1908 ought to have been undertaken and the petitioner ought to have been granted an opportunity of hearing before passing any such order.

10. In view of the above, no prejudice would be caused to the respondent in case the impugned order dated 25.10.2022, only to the extent where the petitioner has been directed to deposit the entire decretal amount within two weeks from that day, is set aside, with a request to the Commission to provide an opportunity to the petitioner to address arguments on this issue.

11. It is informed that there is a likelihood of the Commission taking up the matter for final hearing soon. In such a case, the Commission may take up the issue with respect to the deposit at the time of final hearing of the appeal bearing First Appeal No. 752/2021.

12. In view of the above directions, the petition along with pending application is disposed of with no order as to costs.

TUSHAR RAO GEDELA, J

DECEMBER 15, 2022/nd