

Arjun

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1701 OF 2023

Sufiyan Aslam Qureshi

...Petitioner

V/s.

Shaikh Zainuddin Mohd. Fareed & Ors.

...Respondents

Mr. D. V. Mirajkar a/w Rahul Motkari, for the Petitioner.

Mr. M. J. Bhatt, for Respondent Nos.1 & 2.

CORAM : MADHAV J. JAMDAR, J.

DATED : DECEMBER 15, 2023

P.C.:

1. On earlier occasion, I have heard the submissions of Mr. Mirajkar, learned Counsel along with Mr. Motkari, learned Counsel, appearing for the Petitioner and Mr. Bhatt, learned Counsel appearing for Respondent Nos.1 and 2.

2. By the present Writ Petition filed under Article 227 of the Constitution of India, the Petitioner is challenging the legality and validity of the Order dated 6th January 2023 passed by the learned State Consumer Disputes Redressal Commission, Maharashtra ("**impugned Order**") by which the Revision Petition filed by the Petitioner challenging the legality and validity of the Order 20th September 2022 passed by the learned Additional

Thane District Consumer Disputes Redressal Commission in Consumer Complaint No.46 of 2022, was confirmed.

3. The learned Additional Thane District Consumer Disputes Redressal Commission by the said Order dated 20th September 2022 dismissed the Application filed by the Petitioner who is the Opponent in the said Complaint contending that the said Complaint is barred by limitation. The said Order is confirmed by the learned State Consumer Disputes Redressal Commission, Maharashtra.

4. After arguing the matter for some time, learned Counsel appearing for the Petitioner took instructions. As the issue of limitation is a mixed of question of fact and law, Mr. Mirajkar, learned Counsel along with Mr. Motkari, learned Counsel, appearing for the Petitioner submitted that the Petitioner is withdrawing the Application dated 18th May 2022 filed under Section 69 of the *Consumer Protection Act, 2019* raising the said contention of limitation with liberty to raise and contest the proceedings of Consumer Complaint No.46 of 2022 on all grounds including the ground of limitation.

5. Accordingly, an affidavit of the Petitioner dated 14th December 2023 has been tendered by Mr. Motkari, learned Counsel appearing for the Petitioner in the Court. In view of same, as the Petitioners are withdrawing the Application dated 18th

May 2022 raising contention that the said Consumer Complaint No.46 of 2022 be dismissed on the ground of limitation, the Order dated 20th September 2022 passed by learned Additional Thane District Consumer Disputes Redressal Commission as well as the Order dated 6th January 2023 passed by the learned State Consumer Disputes Redressal Commission, Maharashtra in Revision Petition No.RP/22/132 are quashed and set aside.

6. It is clarified that the Petitioners are at liberty to contest the said proceedings of Consumer Complaint No.46 of 2022 on all grounds including the ground of limitation.

7. The Writ Petition is disposed of in the above terms, however, with no order as to costs.

8. It is also clarified that this Court has not considered the merits and all contentions on merits are expressly kept open.

[MADHAV J. JAMDAR, J.]