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

% Judgment delivered on: 14.02.2023

+ CM(M) 244/2023

SOUMYA BHATTACHARYA

..... Petitioner

versus

SUDHIR KUMAR THAKUR & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Sugata Shankar Roy, Adv.

For the Respondent : Mr. A. K. Thakur, Mr. Rishi Raj and Mr. Sujeet Kumar, Advs. for R-1 to 3
Mr. Sanjay Kumar Ghosh, Adv. for R-4 & 5

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

CM APPL. 7299/2023 (Exemption)

1. Exemption allowed subject to all just exceptions.
2. Application stands disposed of.

CM(M) 244/2023 & CM APPL. 7298/2023 (Stay)

3. The petitioner challenges the orders dated 08.08.2022 and 15.09.2022 passed by the learned National Consumer Disputes Redressal Commission, New Delhi (For short 'National Commission) whereby under the order dated 08.08.2022 the learned National Commission has permitted the withdrawal of the application under

Order VI Rule 17 CPC, 1908 filed by the respondent/complainant and vide a order dated 15.09.2022, the review application filed by the petitioner/respondent therein was dismissed.

4. Mr. Roy, learned counsel appearing for the petitioner submits that the learned National Commission should not have granted withdrawal of application under Order VI Rule 17 CPC, 1908 as sought by the respondent/complainant and should have directed the hearing of the said application.

5. The arguments are alien to procedure known to law, for the reason that if an application has been filed by a party surely, the party is at liberty to either press for the same or withdraw it unless there are admissions which are to the advantage of other party and to the detriment of the party withdrawing the said application. Learned counsel also submits that the said application had been pending for almost nine years and it is unfair for the learned National Commission to permit withdrawal.

6. This Court has considered the aforesaid argument and finds it without any substance for the reason that the withdrawal belated or otherwise is a simple withdrawal without anything more than that and such withdrawal of an application cannot be taken to be detrimental to either of the party.

7. Mr. Thakur, learned counsel appearing for the respondent/complainant submits that in case the petitioner is under any impression that there are any admissions so made in the application under Order VI Rule 17 CPC, 1908 filed by the respondent/complainant, the petitioner/respondent therein would be at liberty to take advantage, if so,

at the time of final arguments.

8. Mr. Roy, learned counsel appearing for the petitioner submits that an application under Section 24A of the Consumer Protection Act, 1986 seeking condonation of delay in filing the original complaint has been filed and yet not been heard and decided by the learned national commission.

9. Be that as it may, it has been stated at bar that the final arguments have been addressed on behalf of the respondent/complainant and are to be addressed by the petitioner/respondent therein tomorrow i.e. 15.02.2023.

10. In view of the aforesaid submissions, this Court is of the considered opinion that while hearing the final arguments to be submitted on behalf of the petitioner/respondent therein, the learned National Commission would also permit the petitioner/respondent therein to argue on the application under Section 24A of the Consumer Protection Act, 1986, if any, pending, along with the final arguments on the original complaint and no separate hearing may be afforded to the petitioner/respondent therein for the same.

11. The petitioner/respondent is directed to address final arguments as fixed by the learned National Commission on 15.02.2023.

12. In view of the above, the petition is disposed of.

13. A copy of this order be given *dasti* under the signatures of Court Master.

TUSHAR RAO GEDELA, J .

FEBRUARY 14, 2023/ms