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

% Judgment delivered on: 22.03.2023

+ CM(M) 455/2023

APOLLO MULTISPECIALITY HOSPITAL LTD

EARLIER KNOWN AS

APOLLO GLENEAGLES HOSPITAL

..... Petitioner

versus

MADAN MURARI VARMA AND ORS

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Prabir Basu and Mr. Sanjoy Kr
Ghosh, Advocates

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]

CM APPL No. 13573/2023

1. This is an application seeking exemption from filing certified copies of the annexures.
2. Exemption is allowed, subject to all just exceptions.
3. Application stands disposed of.

CM(M) 455/2023 & CM APP No.13572/2023 (Stay)

4. The petitioner challenges the order dated 17.01.2023 passed by

the National Consumer Disputes Redressal Commission (hereinafter referred to as “National Commission”) in MA No. 58/2019 in First Appeal No. 1324/2018 titled ‘*Medan Murari Verma & Ors vs. Apollo Multispeciality Hospital Ltd & Ors.*’ whereby the learned National Commission has permitted reduction in the claim amount to an amount below Rs.1 Crore so as to enable the respondent/consumer to maintain his original claim before the State Commission of West Bengal.

5. Learned counsel challenges the said direction given by National Commission on specific grounds of pecuniary jurisdiction falling within the ambit of Section 17 of the Consumer Protection Act, 1986.

6. It is submitted by learned counsel that the respondent/complainant had originally filed the complaint before the State Commission of West Bengal limiting the claim to Rs.1 Crore so as to enable the State Commission to exercise its pecuniary jurisdiction over the complaint so filed.

7. An objection was taken by the petitioner herein, on the ground that the goods and services rendered alongwith the compensation claim would bring the claimed amount to more than Rs.1 Crore, hence the State Commission would not have the pecuniary jurisdiction to adjudicate upon the original complaint.

8. The State Commission of West Bengal determined the objection by way of the order dated 26.06.2018, whereby, it held that the amount claimed in the complaint specifically relating to the goods and services rendered could not have been given up by the original complainant to bring it within the pecuniary jurisdiction exercised by it and on that

basis, dismissed the original complaint.

9. The respondent/complainant filed an appeal bearing First Appeal No. 1324/2018 challenging the said dismissal. By way of the order dated 12.10.2018, National Commission allowed the appeal *ex parte* and remitted the matter back to the State Commission of West Bengal to proceed further in the case and decide the matter as per law.

10. The National Commission, simultaneously gave leave to the respondent to file its objection in case it had any grievance with the order passed by it. Accordingly, the petitioner filed the M.A.No.58/2019 seeking directions. The National Commission, on the objections of the petitioner, filed vide the aforesaid Miscellaneous Application, in fact, permitted the complainant to reduce the claim amount so as to enable complaint to be maintainable before the State Commission.

11. Petitioner challenges the said impugned order on various grounds.

12. Learned counsel submits that Section 17 of the Consumer Protection Act, 1986 primarily contains the manner in which a pecuniary jurisdiction of the State Commission is to be determined, in that, the amount of the value of goods or services or compensation, if any, claimed should not exceed Rs.1 Crore. On that, learned counsel submits, the goods and services so availed by the original complainant from the petitioner could not have been voluntarily reduced by the respondent/claimant to fall within the purview of the State Commission.

13. Learned counsel submits that not only the complainant was bound by the provisions of Section 17 of the Act, even the National Commission committed an error by permitting the

respondent/complainant to reduce his claim amount so as to fall within the pecuniary jurisdiction of the State Commission.

14. Learned counsel submits that this would also amount to forum shopping which is impermissible.

15. That apart, learned counsel submits that the National Commission in an objection raised by the petitioner, could not have passed such orders. Learned counsel, on merits, submits that this would point out to the fact that the claim itself is vexatious.

16. This Court has considered the arguments rendered by learned counsel as also perused the various orders placed on record.

17. It is apposite to extract provision of Section 17 of the Consumer Protection Act, 1986, which reads as under:-

“17. Jurisdiction of the State Commission. –[(1)] Subject to the other provisions of this Act, the State Commission shall have jurisdiction –

(a) to entertain–

(i) complaints where the value of the goods or services and compensation, if any, claimed [exceeds rupees twenty lakhs but does not exceed rupees one crore;] and

(ii) appeals against the orders of any District Forum within the State; and

(b).*”***

18. At the outset, it is noted that the provisions of Section 17 are merely an indicator to the fact as to what would be the amount upon which the State Commission could adjudicate a particular dispute. The relevance of the words “goods” or “services” and “compensation” are to

be read in conjunction with the valuation of the complaint alone. The provisions of Section 17 of the Act nowhere prohibit or bar a party from acquiescing or waiving or totally giving up, either the whole of the claim or part of the claim. Merely because the party gives up its claim or, part of such claim, does not render such action as forum shopping. Moreover, it is the litigant's/claimant's prerogative, either to claim or not to claim a particular amount. Whether the amount constitutes value of goods or services or compensation/damages and what value has to be attached thereto is within the pure purview of the claimant alone. This is for the reason that the said amount is yet to be decided and ascertained by the Courts or any other Tribunal having entrappings of a Court.

19. Another relevant aspect which needs consideration of this Court is, that the present dispute arises on a consumer complaint and the Consumer Protection Act, as is well settled, is a beneficial legislation which does not have the rigors of, either the Code of Civil Procedure, 1908 or even the Indian Evidence Act, 1872.

20. That apart, even as an Appellate Court, in its appellate jurisdiction, the National Commission has the jurisdiction to permit a party to give up a particular claim so as to enable it to bring the claim amount within the jurisdiction of the State Commission.

21. Moreover, by virtue of the respondent/complainant having given up a part of his claim amount, apparently, no prejudice either on fact or on law, has occasioned against the petitioner/hospital to make a grievance out of the same. In that, there is no prejudice in respect of any Court fees or other such bar in law for a complainant to reduce his claim.

22. The reduction of the claim amount whether on the goods or services or compensation is entirely the prerogative of the claimant.
23. No other prejudicial or procedural irregularity has been pointed out by learned counsel.
24. In view of the aforesaid, the petition is dismissed with no order as to costs.

MARCH 22, 2023

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TUSHAR RAO GEDELA, J.

