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

Date of decision: 01<sup>st</sup> SEPTEMBER, 2023

IN THE MATTER OF:

+ **W.P.(C) 11620/2023 & CM APPL. 45317/2023**

SARNATH FINANCE LIMITED

..... Petitioner

Through: Mr. Abhishek Bharti, Advocate

versus

RAKESH KUMAR

..... Respondent

Through:

**CORAM:**

**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**JUDGMENT (ORAL)**

1. *Vide* the present Writ Petition the Petitioner seeks to challenge the Order dated 14.07.2023, passed by the National Consumer Disputes Redressal Commission (*hereinafter referred to as 'the NCDRC'*) in Revision Petition No.2433/2017, rejecting the revision petition filed by the Petitioner herein and affirming the Order dated 21.04.2017, passed by the State Consumer Dispute State Consumer Dispute Redressal Commission, Uttar Pradesh, (*hereinafter referred to as 'the State Forum'*) in Appeal No.710/2005 arising out of Order dated 21.02.2005, passed by the District Consumer Dispute Redressal Forum (*hereinafter referred to as 'the District Forum'*)
2. The facts, in brief, leading to the present Writ Petition are as under:
  - a) It is stated that the Respondent/complainant took financial



assistance from the Petitioner herein to purchase a truck under a 'Hire Purchase Agreement'. It is stated that on 01.07.1997 financial assistance of Rs.4 lakhs was provided to the Petitioner herein against the hire charges of Rs.1,92,000/- within a period of 36 months in 35 equal monthly instalments of Rs.16,500/- each and the last and 36<sup>th</sup> installment of Rs.14,500/-.

- b) It is stated that between 24.06.1997 to 12.05.2000 the Respondent paid Rs.4,29,190/- to the Petitioner and was in arrears of Rs.1,62,810/- towards hire amount and hire charges.
- c) It is stated that since the Respondent had delayed in making payments, an amount of Rs.62,836/- was levied by the Petitioner/Company as penal charges.
- d) It is stated that at the request of the Respondent the Petitioner/Company paid additional sums of Rs.12,396/-, Rs.11,299/- & Rs.9,816/- towards annual insurance premium on behalf of the respondent on 30.06.1997, 28.07.1998 & 21.07.1999 respectively.
- e) It is stated that the agreement came to an end on 01.07.2000 when the Respondent was in arrears of Rs.2,25,646/- including penal charges of Rs.62,836/-. It is stated that the Petitioner/Company granted additional time, upto 16.11.2000, to the Respondent to clear his dues and did not exercise his right to re-possess the vehicle.
- f) It is stated that in November, 2000 the vehicle was confiscated by the Road Tax Office, Gwalior for faults committed by the Respondent and on 24.11.2000 the Petitioner again provided



Rs.40,000/- to the respondent to secure the release of the vehicle on the assurance that the vehicle would be handed over to the Petitioner once it is released.

- g) It is stated that on 08.12.2000 the petitioner once again paid a sum of Rs.25,500/- to the Respondent to enable him to clear the tax due to the Road Transport Office, Bareilly.
- h) It is stated that on 16.12.2000 the Petitioner took the possession of the vehicle and on 18.12.2000 a letter was sent to the Respondent to clear his outstanding dues within seven days failing which the vehicle would be auctioned. It is stated that on 19.12.2000 the Respondent's guarantor withdrew his guarantee. It is stated that when the Respondent was not able to clear the dues, the vehicle was sold to one Bhupinder Singh on 05.01.2001 for Rs.3,26,000/- which was adjusted in the Respondent's hirer Current Account.
- i) It is stated that the Petitioner/company also levied penal interest of Rs.43,550/- on the Petitioner. It is stated that on 13.01.2001 the Petitioner/Company wrote a letter to the asking the Respondent to clear his outstanding arrears of Rs.30,000/-.
- j) It is stated that the Respondent herein approached the District Forum, Bareilly, by filing a complaint for directing the Petitioner herein to handover the vehicle to the Respondent along with a compensation of Rs.1,47,337/- and also to direct the Petitioner to pay a sum of Rs.30,000/- per month to the Respondent till the time they do not return his vehicle.
- k) The District Forum *vide* its Order dated 21.02.2005 held that



upon expiry of the Hire Purchase Agreement, the total balance amount was Rs.1,37,539/-. The District Forum further held that at the time when the vehicle was sold it was only three years old and it was valued at Rs.4,50,000/- by an approved valuer. The District Forum held that the complainant himself has admitted that the value of the vehicle at the time when it was sold by the Petitioner herein was Rs.3,50,000/-. The District Forum, therefore, held that even if this amount is taken into consideration then also after deducting the amount due and payable by the Respondent herein, Rs.2,12,661/- ought to have been paid to the Respondent/complainant by the Petitioner herein. The District Forum, therefore, held that the Petitioner either recovers Rs.1,37,539/- from the Respondent and return the vehicle or take the possession of the truck and pay Rs.2,12,661/- to the Respondent herein/Complainant. The District Forum also granted compensation of Rs.50,000/- to the Respondent herein and directed the Petitioner herein to pay a sum of Rs.2,62,461/- to the Complainant/Respondent within one month from the date of the Order along with interest @ 9% which was payable from the date of complaint till the date of realization.

- 1) This order was assailed by the Petitioner before the State Forum by filing an appeal. The State Forum affirmed the Order of the District Forum. The Petitioner, thereafter, filed a revision petition before the National Forum and the National Forum vide the Order impugned herein, after going through the orders



of both the Forums, held that the revision petition is only an attempt to re-appreciate the evidence which is not permitted in a revision petition.

m) It is this order which has been assailed in the present Writ Petition.

3. It is stated by the learned Counsel for the Petitioner that the Forums below have failed to take into account the amounts paid by the Petitioner towards the insurance of the vehicle and also the amount which has been paid by the Petitioner for release of the vehicle from the authorities. He, therefore, prays that the orders passed by the Forums below be set aside.

4. Heard the Counsel and perused the material on record.

5. The District Forum and the State Forum have held that the amount owed by the Respondent is Rs.1,37,539/- and the value of the vehicle at the time when it was sold was Rs.3,50,000/- and, therefore, the Respondent/Complainant was entitled to a refund of Rs.3,50,000/- (-) Rs.1,37,539/- = Rs.2,12,661/-. The NCDRC refused to exercise its revisional jurisdiction on the ground that the Petitioner is attempting to re-agitate the facts which is not permissible in the revisional jurisdiction of the NCDRC.

6. Vide the present Writ Petition, the Petitioner is once again persuading this Court to enter into the realms of facts and come to a different conclusion from what has been arrived at by the District Forum and the State Forum which the NCDRC has chosen not to interfere with while exercising its revisional jurisdiction under Section 21 of Consumer Protection Act, 1986. The Petition is asking this Court to exercise its powers under Article 227 of the Constitution of India to interfere with the order of the NCDRC which refused to exercise its revisional powers.



7. It is settled law that the power of judicial review of this Court while exercising its power under Article 227 of the Constitution of India is primarily to ensure fairness in treatment and not to ensure fairness of conclusion. If the conclusion or finding is such that no reasonable person would have ever reached or where the conclusions upon consideration of the evidence reached by the authority are perverse or suffer from patent error on the face of record or based on no evidence at all, a writ of certiorari could be issued. The scope of judicial review cannot be extended to the examination of correctness or reasonableness of a decision of authority as a matter of fact. [refer: SBI v. Ajai Kumar Srivastava, (2021) 2 SCC 612].

8. This Court is not persuaded to once re-appreciate the facts while exercising its powers under Article 227 of the Constitution of India and substitute its own conclusion to the conclusion arrived at by the Forums below. The Petitioner has not been able to demonstrate any patent illegality in the orders passed by the District Forum and the State Forum or that the Orders passed by the Forums below are so arbitrary or are based on nill evidence warranting interference by this Court under Article 226 of the Constitution of India.

9. Accordingly, the Writ Petition is dismissed. Pending applications, if any, also stand dismissed.

**SUBRAMONIUM PRASAD, J**

**SEPTEMBER 1, 2023**

*Rahul*