



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

Date of decision: 02nd November, 2023

IN THE MATTER OF:

+ **W.P.(C) 13571/2023 & CM APPL. 53602/2023**

NORITSU INDIA PRIVATE LIMITED

..... Petitioner

Through: Mr. Ramesh Kumar and Mr. Rishi Jain, Advocates

versus

MRS. HASINA KAREEM

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. Vide the present Writ Petition, the Petitioner seeks to challenge the Order dated 01.08.2023 and 26.09.2023, passed by the National Consumer Disputes Redressal Commission (*hereinafter referred to as 'the NCDRC'*) in FA/2057/2019 and RA/286/2023 respectively.
2. The facts, in brief, leading to the present Writ Petition, are as under:
 - a. It is stated that the Petitioner is engaged in the business of sales of photo printer machines for business.
 - b. It is stated that the Respondent herein purchased printer machines from the Petitioner herein on 22.04.2013. It is stated that disputes arose between the parties regarding the service and maintenance of the machines purchased by the Respondent herein.



- c. It is stated that the Respondent herein approached the Tamil Nadu State Consumer Disputes Redressal Commission (*hereinafter referred to as 'the State Commission'*) by filing a complaint case against the Petitioner herein seeking for replacement of the printer machines or refund of the cost of the machines, i.e. Rs.35,77,252/- which was paid by the Respondent towards purchase of the machines. The Respondent herein also claimed compensation of Rs.25 lakhs from the Petitioner herein towards cost of spares and services of the machines and also towards loss of business and mental agony.
- d. It is stated that the State Commission vide its judgment dated 11.01.2019 allowed the complaint of the Respondent herein and directed the Petitioner herein to replace the defective machines with new ones or in the alternative pay a sum of Rs. Rs.35,77,252/- to the Respondent herein. The State Commission also directed the Petitioner herein to pay a sum of Rs.1,10,000/- to the Respondent herein as compensation for loss of business and mental agony.
- e. The said Order was challenged by the Petitioner herein before the NCDRC by filing an appeal, being FA/2057/2019. on 23.10.2019. The NCDRC by the Order impugned herein dismissed the appeal on the ground that the same is barred by time and that the delay of 226 days in filing the appeal, being inordinate, cannot be condoned.
- f. Before the NCDRC it was argued by the learned Counsel for the Petitioner herein that the Counsel for the Petitioner in the



State Commission did not communicate about the proceedings to the Petitioner herein not sought any instruction from him with regard to the filing of evidence. It was also argued that the Counsel for the Petitioner before the State Commission stopped appearing before the Commission and the Commission allowed the complaint by passing the impugned order. It was also argued before the NCDRC that the impugned order was not received by the Petitioner herein as the address of the Petitioner had changed and it was only when the execution proceedings were initiated that the Petitioner came to know about the impugned Order. It was also argued before the NCDRC that the Petitioner herein had lost all the contacts with his counsel who was representing the Petitioner in the State Commission and it is because of these circumstances that the Petitioner could not file the appeal on time.

- g. The NCDRC was of the opinion that the Petitioner had not been diligent in pursuing the appeal and that the delay in filing the appeal was not due to the reasons beyond the control of the Petitioner.
- h. Thereafter the Petitioner herein filed an SLP, being SLP(C) 18575/2023, before the Apex Court, and the said SLP was dismissed by the Apex Court with a direction to the Petitioner to approach this Court by filing an appropriate petition.
- i. The Petitioner thereafter filed W.P.(C) 12047/2023 before this Court on 06.09.2023 challenging the Order dated 01.08.2023, passed by the NCDRC on the ground that the NCDRC ought



not to have dismissed the appeal on the ground of limitation as the delay in filing the appeal was not of 226 days but of 78 days. This Court *vide* Order dated 13.09.2023 disposed of the Writ Petition with liberty to the Petitioner to file an appropriate application before the NCDRC seeking review of the Order dated 01.08.2023, passed by the NCDRC.

- j. It is stated that the Petitioner filed a review application, being RA/286/2023 before the NCDRC which was dismissed by the NCDRC *vide* Order dated 26.09.2023.
- k. The Petitioner has, thereafter, approached this Court by filing the present Writ Petition.

3. It is contended by the learned Counsel for the Petitioner that NCDRC has erred in calculating the delay in filing the appeal as 226 days. He states that the period of limitation starts from the date when the Petitioner came to know about the Order passed by the State Commission and, therefore, the NCDRC ought not to have calculated the period of limitation from the date of the Order. He further states that the Petitioner had lost touch with his Counsel in the State Commission and the Officer of the Petitioner had changed during the pendency of the complaint case because of which the Petitioner could not receive the copy of the impugned order nor was he aware of the Order.

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

5. Material on record discloses that the Petitioner has not been diligent in pursuing the complaint before the State Commission. There is nothing on record to show that the Petitioner tried to contact his counsel in the State



Commission during the pendency of the complaint. It is an admitted fact that the Petitioner's counsel before the State Commission stopped appearing in the matter after 22.06.2018. Petitioner did not contact his counsel from 22.06.2018 to 11.01.2019, i.e. for a period of six months. This shows the lackadaisical approach of the Petitioner in pursuing the complaint case. It is well settled that the law is for vigilant and not for indolent. Courts cannot come to the rescue of persons who do not pursue their matters diligently.

6. It has been held by the NCDRC that the copy of the Order dated 11.01.2019 was sent to the counsel who was representing the Petitioner before the State Commission but the Petitioner has not taken any steps to contact his Counsel. Had the Petitioner been diligent in following the matter, it would have known that the counsel is not appearing in the matter and would have taken steps. Material on record also discloses that in the execution proceedings, the counsel for the Petitioner had appeared before the State Commission on 10.07.2019 yet no steps were taken by the Petitioner for three months to file an appeal. This also shows the complete lack of diligence on the part of the Petitioner in pursuing the matter.

7. Material on record also discloses that the Order dated 11.01.2019 was uploaded on the website of the State Commission on 18.03.2019. Therefore, it cannot be said that the Petitioner herein did not know about the Order dated 11.01.2019 and the contention of the learned Counsel for the Petitioner that the Petitioner came to know about the order dated 11.01.2019 only when the Petitioner received a notice for execution of the said Order, cannot be accepted. Even assuming that the date of knowledge of the Order should be taken as the starting point of the period of limitation then also the delay of 78 days in approaching the NCDRC cannot be accepted.



8. It is well settled that if a person is not diligent enough to pursue his remedies then he deserves no sympathy from the Courts. It is also well settled that the Courts does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic and if there is inordinate delay on the part of the petitioner in approaching the Courts and such delay is not satisfactorily explained, the Courts may decline to intervene and grant relief.

9. In view of the above, this Court is not inclined to interfere with the Orders dated 01.08.2023 and 26.09.2023, passed by the NCDRC.

10. Accordingly, the Writ Petition is dismissed. Pending applications, if any, also stands dismissed.

11. It is always open for the Petitioner to approach the execution Court to initiate proceedings for settlement of the case. As and when and if and when such an application is made by the Petitioner, the Execution Court is directed to consider the case and pass orders in accordance with law.

SUBRAMONIUM PRASAD, J

NOVEMBER 02, 2023

Rahul