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

% ***Date of decision: 25th September, 2024***

+ **CM(M) 2523/2024**

ICICI BANK LIMITED

.....Petitioner

Through: Dr. Hemant Gupta with Ms. Mahak
Gupta, Advocates with Mr. Jarrar
Rizvi, AR of the petitioner.

versus

RUMNEEK BAWA & ANR.

.....Respondents

Through: Mr. Kapil Gupta with Mr. Ravi
Kumar, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 42885/2024 (early hearing)

1. Heard.
2. With the consent of parties, the date is preponed and matter is taken up today itself for final arguments.
3. The application stands disposed of.

CM(M) 2523/2024

1. Respondents herein have filed a complaint before the learned State Consumer Disputes Redressal Commission, New Delhi (SCDRC) way back in the year 2016. They sought recovery of Rs.28,47,351/-, besides interest and cost of litigation.
2. Such complaint was allowed on 25.07.2022 and the petitioner



Bank was directed to credit an amount of Rs.17,86,514/- in the joint bank account of the complainants along with applicable interest. There was also a direction to pay a sum of Rs.2,00,000/- as mental agony/harassment and Rs.50,000/- as litigation cost.

3. Feeling aggrieved by said order passed by SCDRC on 25.07.2022, an appeal was filed before the learned National Consumer Disputes Redressal Commission (NCDRC) on 31.10.2022.

4. When such appeal was taken up by learned NCDRC, it issued notice and even stayed the order impugned before it. The same is obvious from order dated 24.01.2023.

5. The petitioner Bank has placed on record all the subsequent orders in order to show that, at no earlier point of time, there was any issue with respect to the fact that the appeal was beyond limitation. No query was either raised by the learned NCDRC that the aforesaid appeal was barred by time.

6. The arguments were heard on the main appeal which was accompanied by three applications i.e. the application for stay, exemption and directions and the matter was, thereafter, reserved for judgment.

7. However, when the judgment was pronounced on 08.04.2024, the appeal was dismissed solely on the ground of limitation, while also observing that there was no reason to condone the delay which had not been explained.



8. Learned counsel for the petitioner reiterates that since there was never any query with respect to issue of limitation, there was no occasion for him to have even answered or explained the reason thereof.

9. According to him, the appeal had been filed within the stipulated period as the period has to be reckoned from the day when the certified copy was received by him from learned SCDRC.

10. I have heard learned counsel for the respondent and it seems quite evident and apparent from all the orders which had been passed by the learned NCDRC, from time to time, that there was never any query or, for that matter, any argument in relation to the aspect related to limitation.

11. To that extent, the petitioner seems to have been caught by surprise.

12. Indubitably, even if, learned NCDRC was of the opinion that the appeal was barred by time, it should have at least given opportunity to the appellant to explain the same and without hearing the parties, NCDRC should not have dismissed the appeal solely on the ground of limitation.

13. During course of the arguments, learned counsel for the petitioner, in order to show his *bonafide*, stated that he is even ready to deposit the decretal amount before learned NCDRC within six weeks from today. He prays that learned NCDRC may, therefore, be requested



to hear the parties again on the point of limitation as the appeal was never barred by time.

14. Learned counsel for the respondent, though, has no objection to the aforesaid proposal, at the same time, he states that the appeal was beyond limitation.

15. Be that as it may, in view of the facts placed before this Court, the impugned order dated 08.04.2024 is, hereby, set aside and learned NCDRC is requested to hear the arguments afresh with respect to the limitation after giving due opportunity in this regard to both the sides. Needless to say, if learned NCDRC comes to the conclusion that the appeal is within time, it shall hear further arguments on merits and dispose of appeal in accordance with law. It is, however, clarified that this Court has not expressed any opinion about the issue of limitation, either way.

16. The parties shall appear before the learned NCDRC on 20.11.2024 and learned NCDRC would, as per its Board position, take up the appeal for consideration afresh.

17. In view of the above said order, the appeal stands restored to its original number and position.

18. The Petitioner Bank is directed to deposit the entire amount as per order dated 25.07.2022 passed by the learned SCDRC within six weeks from today with learned NCDRC.

19. In case, said amount is deposited by the petitioner within six



weeks from today, no coercive process shall be taken in the Execution Petition, stated to have been filed by the complainant.

20. The next date of 27.11.2024 is cancelled.

(MANOJ JAIN)
JUDGE

SEPTEMBER 25, 2024/st