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

% ***Date of decision : 22nd August, 2024***

+ CM(M) 1497/2023 & CM APPL. 47709-47711/2023

DR OM PRAKASH AGARWALPetitioner

Through: Mr. Tavish B. Prasad, Advocate.

versus

ORIENTAL INSURANCE COMPANY LTD & ORS.Respondents

Through: Mr. Kanwar Kochhar, Advocate for
Insurance Company.

Mr. M.A. Khan, Advocate for
respondent/Dr.H.S. Bedi.

Dr. Sushil Kumar Gupta with
Mr. Sakshit Bhardwaj, Advocates for
Respondent NIA

Mr. Sandeep Kapoor with
Mr. Saurabh Sharma with Ms. Renu
Khanna, Advocates for Metro
Hospital.

+ CM(M) 1498/2023 & CM APPL. 47712-47714/2023

DR OM PRAKASH AGARWALPetitioner

Through: Mr. Tavish B. Prasad, Advocate.

versus

DR H S BEDI & ORS.Respondents

Through: Mr. Kanwar Kochhar, Advocate for
Insurance Company.

Mr. M.A. Khan, Advocate for
respondent/Dr.H.S. Bedi.

Dr. Sushil Kumar Gupta with
Mr. Sakshit Bhardwaj, Advocates for
Respondent NIA

Mr. Sandeep Kapoor with



Mr. Saurabh Sharma with Ms. Renu Khanna, Advocates for Metro Hospital.

- + CM(M) 1499/2023 & CM APPL. 47717-47719/2023
- + CM(M) 1501/2023 & CM APPL. 47721-47723/2023

DR OM PRAKASH AGARWALPetitioner
Through: Mr. Tavish B. Prasad, Advocate.

versus

METRO HOSPITAL AND HEART INSTITUTE THROUGH CMD
DR PURSHOTAM LAL & ORS.Respondents
Through: Mr. V.P. Rana with Mr. Nirmalya Shukla and Ms. Bhawana, Advocate for respondent Nos.1 and 2 in CM(M) 1499/2023
Mr. Kanwar Kochhar, Advocate for Insurance Company.
Mr. M.A. Khan, Advocate for respondent/Dr.H.S. Bedi.
Dr. Sushil Kumar Gupta with Mr. Sakshit Bhardwaj, Advocates for Respondent NIA
Mr. Sandeep Kapoor with Mr. Saurabh Sharma with Ms. Renu Khanna, Advocates for Metro Hospital.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL.48261/2024 (for substitution of legal heirs of petitioner) in CM(M) 1497/2023 & CM APPL.48262/2024 (for substitution of legal heirs of petitioner) in CM(M) 1498/2023



1. Petitioner Dr. Om Prakash Agarwal has challenged order dated 06.06.2023 passed by Hon'ble NCDRC.
2. It is apprised that the petitioner has, unfortunately, expired on 18.05.2024.
3. There is a request to bring on record his legal heirs and the details of legal heirs have been mentioned in para 4 of the applications moved in this regard.
4. Learned counsel for the respondents state that they have no objection if the applications are allowed.
5. Heard. Perused.
6. The applications are, hereby, allowed.
7. Amended Memo of Parties is taken on record.

CM(M) 1497/2023, CM(M) 1498/2023, CM(M) 1499/2023, CM(M) 1501/2023

8. The petitioner herein had filed appeals before Hon'ble National Consumer Disputes Redressal Commission (in short 'NCDRC') impugning order dated 18.03.2016 passed by the State Consumer Disputes Redressal Commission, Lucknow, Uttar Pradesh in Complaint No. 123/2010.
9. Such appeals have been dismissed by Hon'ble NCDRC on 06.06.2023.
10. The present petitions have been filed under Article 227 of the Constitution of India challenging the above orders dated 06.06.2023.
11. Since the entire cause of action pertaining to the present subject matter has arisen within the jurisdiction of Uttar Pradesh, relying upon judgment



dated 04.03.2024 passed by Hon'ble Supreme Court in *Siddhartha S Mookerjee vs. Madhab Chand Mitter*, Civil Appeal Nos. 3915-16/2024, learned counsel for petitioner prays that he may be permitted to withdraw the present petitions with liberty to approach the jurisdictional High Court.

12. This Court has gone through said order wherein the Hon'ble Supreme Court has, very categorically, observed that merely because NCDRC had allowed petition, the jurisdiction would not vest with Delhi High Court and observing that since the cause of action had arisen in Kolkata and the matter had been dealt with by the State Commission of West Bengal, it was held that the jurisdiction of High Court of Calcutta should have been invoked.

13. The situation is precisely the same here, too.

14. The petitions stand disposed of as withdrawn. Liberty, as prayed for, is granted.

15. It is, however, made clear that this Court has not expressed any opinion, whatsoever, regarding the merits of the case.

(MANOJ JAIN)
JUDGE

AUGUST 22, 2024
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