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

% ***Date of decision: 16th August, 2024***

\+ CM(M) 3174/2024 & CM APPL. 46997-46998/2024

SHOMIT FINANCE LIMITED

.....Petitioner

Through: Mr. Shobhit Chaudhry with Mr. Shaswaj Srivatava, Advocates.

versus

MAHESH KUMAR SHARMA

.....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T *(oral)*

1. The challenge in the present petition is with respect to the orders dated 18.12.2023 and 13.02.2024 passed by the Hon'ble National Consumer Disputes Redressal Commission (in short 'NCDRC').

2. Petitioner herein was defending a complaint filed by consumer (respondent herein) and the learned District Commission passed order against the petitioner.

3. Feeling aggrieved, the petitioner filed an appeal before the State Commission, Delhi. However, since the appeal was not pursued in the manner it should have been, such appeal was dismissed by the State Commission, Delhi on 17.05.2023.

4. Such order was, eventually, challenged by the petitioner by filing a

revision petition before the Hon'ble NCDRC.

5. Such revision petition has been dismissed by Hon'ble NCDRC on 18.12.2023. A review was filed and such review has also been dismissed on 13.02.2024.

6. I have seen the reasons given in the impugned order and in order to appreciate the manner in which the appeal was being pursued by the petitioner herein before the State Commission, this Court has also seen various orders passed by the State Commission.

7. It is noticed that there was no appearance from the side of the appellant before the State Commission on 10.05.2022, 07.02.2023 and, thereafter on 17.05.2023. Taking note of the various previous unexplained non-appearances from the side of the appellant, the State Commission was constrained to observe that the appellant was no longer interested in pursuing its matter and, therefore, dismissed the same for non-prosecution.

8. According to the learned counsel for petitioner, earlier the matter could not be taken up by the State Commission on account of pandemic of Covid-19 and, thereafter, because of the change of the counsel, the petitioner company could not keep track of the matter and the moment it learnt that the appeal had been dismissed for non-prosecution, it immediately filed an application seeking its restoration. It is, very fairly, admitted that since power of restoration did not vest with the State Commission, such application was withdrawn and immediately a revision petition was filed before the Hon'ble Commission.

9. Be that as it may, the inaction on the part of the appellant is writ large and it is quite clear from the various orders mentioned above that the appellant neither appeared before the State Commission nor did it file written

submissions, as directed by the State Commission.

10. This Court is very much conscious of the fact that the present petition has been filed under Article 227 of the Constitution of India whereby the Court is required to exercise its supervisory powers. The duty of the supervisory Court is to interdict if it finds that the findings are perverse i.e. (i) Erroneous on account of non-consideration of material evidence, or (ii) Being conclusions which are contrary to the evidence, or (iii) Based on inferences that are impermissible in law. Reference be made to *Puri Investments Versus Young Friends and Co. and Others: 2022 SCC OnLine SC 283.*

11. In the present peculiar circumstances, inaction on the part of the petitioner is quite evident and palpable and, therefore, there is no reason to interfere with the impugned order.

12. The petition is, accordingly, dismissed *in limine*

(MANOJ JAIN)
JUDGE

AUGUST 16, 2024/*sw*