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

+ **W.P.(C) 56/2024**

M/S INTERWEAVE FASHIONS PVT. LTD. Petitioner

Through: Mr. Manoj Singh, Advocate.

versus

M/S NEW INDIA ASSURANCE CO.LTD. Respondent

Through:

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

ORDER

% 03.01.2024

CM APPL. 188/2024 (Exemption)

Allowed, subject to all just exceptions.

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1. The Petitioner has approached this Court challenging the Order dated 05.06.2023 passed by the National Consumer Disputes Redressal Commission (NCDRC) in Miscellaneous Applications No.203/2023 and 204/2023 refusing to modify the Order dated 19.04.2023 passed by the NCDRC in Revision Petition No.366/2013.
2. The facts in brief leading to the writ petition are that the Petitioner being aggrieved by the inaction on the part of the Respondent in paying the Petitioner for the loss suffered by it in an accident, the Petitioner approached the District Forum for claiming the compensation.
3. The District Forum *vide* Order dated 15.05.2009 allowed the complaint and directed the Respondents therein to pay a sum of Rs.15,30,652/- within the period of 30 days. The said order was challenged

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by the insurance company before the State Commission by filing an appeal being First Appeal No.695/2009. The State Commission *vide* Order dated 17.09.2012 modified the order passed by the District Forum and reduced the compensation to Rs.4,73,097/-.

4. Aggrieved by the order of the State Commission and substantial reduction of the amount, the Petitioner filed a Revision Petition before the National Commission being Revision Petition No.366/2013. The insurance company also filed a revision petition being Revision Petition No.344/2013 challenging the order of the State Commission stating that there was no deficiency of service on their part.

5. The National Commission *vide* Order dated 19.04.2023 dismissed the revision petition filed by the insurance company and allowed the revision petition filed by the Petitioner herein and upheld the order of the District Forum. The Petitioner herein thereafter filed the miscellaneous applications being M.A. Nos. 203/2023 and 204/2023 stating that the order passed by the National Commission also includes the interest component. The said applications have been rejected by the NCDRC stating that the District Commission had not directed to pay any interest whereas the State Commission after substantially reducing the amount had awarded 10% interest and once the order of the State Commission is set aside, the order of the District Forum gets revived, which does not order for any interest and, therefore, the applications were rejected. The Petitioner seeks to challenge the said order by filing the instant writ petition.

6. It is well settled that the power of superintendence conferred by Article 227 of the Constitution of India is to be exercised more sparingly and only in appropriate cases within the bounds of law and not for correcting mere errors (refer: Dalmia Jain Airways Ltd. v. Sukumar Mukherjee, 1950



SCC OnLine Cal 88).

7. In Waryam Singh v. Amarnath, **1954 SCC OnLine SC 13**, the Apex Court has held as under:

“12. This power of superintendence conferred by Article 227 is, as pointed out by Harries C.J., in Dalmia Jain Airways Ltd. v. Sukumar Mukherjee [AIR 1951 Cal 193] , to be exercised most sparingly and only in appropriate cases in order to keep the subordinate courts within the bounds of their authority and not for correcting mere errors. As rightly pointed out by the Judicial Commissioner in the case before us the lower courts in refusing to make an order for ejectment acted arbitrarily. The lower courts realised the legal position but in effect declined to do what was by Section 13(2)(i) incumbent on them to do and thereby refused to exercise jurisdiction vested in them by law. It was, therefore, a case which called for an interference by the Court of the Judicial Commissioner and it acted quite properly in doing so. In our opinion there is no ground on which in an appeal by special leave under Article 136 we should interfere. The appeal, therefore, must stand dismissed with costs.”

8. The Apex Court in several judgments while dealing with the exercise of power by a High Court under Article 227 of the Constitution of India has held that the High Courts must be cautious while exercising its powers conferred on it under Article 227 of the Constitution of India. It has been held that the power of superintendence should not be exercised unless there has been (a) an unwarranted assumption of jurisdiction, not vested in a court or tribunal, or (b) gross abuse of jurisdiction, or (c) an unjustifiable refusal to exercise jurisdiction vested in courts or tribunals. Only when there is flagrant abuse of these principles or there is a manifest error of law patent on the face of records or an outrageous miscarriage of justice, power of



superintendence can be exercised. In fact, the Apex Court in Laxmikant Revchand Bhojwani v. Pratapsing Mohansingh Pardeshi, (1995) 6 SCC 576, the Apex Court has held as under:

“9. Before parting with this judgment we would like to say that the High Court was not justified in extending its jurisdiction under Article 227 of the Constitution of India in the present case. The Act is a special legislation governing landlord-tenant relationship and disputes. The legislature has, in its wisdom, not provided second appeal or revision to the High Court. The object is to give finality to the decision of the appellate authority. The High Court under Article 227 of the Constitution of India cannot assume unlimited prerogative to correct all species of hardship or wrong decisions. It must be restricted to cases of grave dereliction of duty and flagrant abuse of fundamental principles of law or justice, where grave injustice would be done unless the High Court interferes.”

9. Similarly, the Apex Court in Shalini Shyam Shetty v. Rajendra Shankar Patil, (2010) 8 SCC 329, has held that the High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. The Apex Court in the aforesaid judgment has held that the object of superintendence, both administrative and judicial, is to maintain efficiency, smooth and orderly functioning of the entire machinery of justice in such a way as it does not bring it into any disrepute. The power of interference under this article is to be kept to the minimum to ensure that the wheel of justice does not come to a halt and the fountain of justice remains pure and unpolluted in order to maintain public confidence in the functioning of the tribunals and courts



subordinate to the High Court. The Apex Court has further held that the exceptional power of judicial intervention is not to be exercised just for grant of relief in individual cases but should be directed for promotion of public confidence in the administration of justice in the larger public interest whereas Article 226 is meant for protection of individual grievance. Therefore, the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline pointed out above and an improper and a frequent exercise of this power will be counterproductive and will divest this extraordinary power of its strength and vitality.

10. The National Commission insofar as it was observed that the District Commission directed only to pay a sum of Rs.15,30,652/- has been revived and that the State Commission has substantially reduced the amount to Rs.4,73,097/- and has given 10% interest for the amount, the said order has since been set aside and the interest component was not granted by the National Commission. It is a plausible view which does not require interference exercising jurisdiction under Article 227 of the Constitution of India. This Court, is, therefore, not inclined to interfere with the said order.

11. The writ petition is dismissed along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

JANUARY 3, 2024

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