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

% ***Date of decision: 26th September, 2024***

+ **CM(M) 3489/2024, CM APPL. 56796/2024 & CM APPL. 56797/2024**

GOVIND T SAMANI

.....Petitioner

Through: Mr. Rishi Kapoor with Ms. Deboleena
Dutta, Mr. Anurag Kumar,
Mr. Prasant Arora, Advocates.

versus

ASHWIN ALOYSRUS DSOUZA & ANR.

.....Respondents

Through: Mr. P. Chaitanyashil, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The grievance raised in the present petition is very limited.
2. In connection with Execution Petition filed in relation to Consumer Complaint No.944/2015, Sh. Govind T Samani i.e. petitioner herein appeared in person before learned National Consumer Disputes Redressal Commission (in short 'NCDRC')
3. Learned NCDRC contemplated initiation of proceedings under Section 27 of the Consumer Protection Act, 1986 (corresponding to Section 72 of Consumer Protection Act, 2019) and in order to ensure his appearance, he was directed to be released on bail on furnishing personal bond of Rs.25 lacs with one surety of the like amount. He was also directed to appear on each date, without fail so that the Commission was in a position to proceed further in accordance with



law.

4. Since the petitioner was not able to arrange for surety, he was directed to be released on his personal bond.
5. Feeling that the above said bond amount was excessive, an application was moved seeking modification and reduction in the bond amount.
6. However, *vide* order dated 16.08.2024, such application was dismissed while holding that the amount was neither exorbitant nor unreasonable. It was also observed that the total outstanding amount including the interest was much more than the amount fixed for surety bond.
7. Such orders are now under challenge with the sole prayer to reduce the bond amount.
8. Learned counsel for the respondents/complainants appears on advance notice.
9. Section 27 of the Consumer Protection Act, 1986 reads as under:-

27. Penalties - [(1)] *Where a trader or a person against whom a complaint is made [or the complainant] fails or omits to comply with any order made by the District Forum, the State Commission or the National Commission, as the case may be, such trader or person [or complainant] shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years, or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees, or with both.*

[* * *]



[(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the District Forum or the State Commission or the National Commission, as the case may be, shall have the power of a Judicial Magistrate of the first class for the trial of offences under this Act, and on such conferment of powers, the District Forum or the State Commission or the National Commission, as the case may be, on whom the powers are so conferred, shall be deemed to be a Judicial Magistrate of the first class for the purpose of the Code of Criminal Procedure, 1973.

(3) All offences under this Act may be tried summarily by the District Forum or the State Commission or the National Commission, as the case may be.]

10. The purpose of initiation of such proceedings is to ensure compliance of orders and to impose penalty wherever so required. The appearance of any such person in such proceedings is for purpose of expediting proceedings contemplated under Section 27 of the Consumer Protection Act, 1986. The power so conferred is akin to power of any Judicial Magistrate and the Commission can try such offence in a summary manner. Thus, it is only for ensuring and compelling the appearance of a person before the Commission, that a bond is insisted and, therefore, such bond amount cannot be excessive or exorbitant and does not have any substantial correlation with the amount sought to be recovered in the execution.

11. Even as per Section 484 of the Bharatiya Nagrik Suraksha Sanhita, 2023, the amount of bond has to be fixed with due regard to the circumstances of the case and shall not be excessive.

12. During course of arguments, learned counsel for the respondents has left it to the discretion of the Court to pass appropriate order in this



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regard. He, however, also supplements that the sole objective behind seeking bond is to ensure the presence of the concerned person before the learned Commission during such proceedings.

13. Keeping in mind the overall facts and circumstances of the case, the present petition is allowed by reducing the bond amount to Rs.1,00,000/-, both for personal bond and for surety bond.

14. Let the bonds be, accordingly, furnished before learned NCDRC within three weeks from today. Such time is granted as the petitioner is stated to be permanent resident of Mumbai.

15. The petition stands disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

SEPTEMBER 26, 2024/st