

25.03.2025

CO 3510 of 2024

**The Manager, Dulichand Motor Private Limited
Vs.
Mr. Somnath Bhattachariya & Anr.**

Mr. Rahul Karmakar
Mr. Santosh Kr. Ray
Ms. Antalina Guha
... ... for the petitioner

Mr. Meghajit Mukherjee
Mr. Gourav Das
Ms. Sonia Das
Mr. Raja Nandi
... ... for the opposite parties

Mr. Sayak Ranjan Ganguly
Ms. Srijani Ghosh
Ms. Indrani Majumdar
... ... for the ICICI Bank Limited

- 1.Affidavit of service filed in Court is taken on record.
- 2.This application under Article 227 of the Constitution of India is at the instance of a dealer of a motor vehicle and is directed against the judgment and order dated 16th January, 2024 passed by the District Consumer Disputes Redressal Commission, South 24-Parganas at Baruipur in Complaint Case No.CC/96/2022.
- 3.Section 41 of the Consumer Protection Act, 2019 provides that any person aggrieved by an order made by the District Commission may prefer an appeal against such order to the State Commission on the grounds of facts or law within a period of 45 days

from the date of the order, in such form and manner, as may be prescribed.

4. Since there is an efficacious alternative appellate remedy provided under the relevant Statute, this Court is not inclined to entertain this application under Article 227 of the Constitution of India.

5. At this stage, Mr. Karmakar, learned advocate appearing for the petitioner submits that the limitation has already set in. Proviso to Section 41 of the 2019 states that the State Commission may entertain an appeal after the expiry of the said period of 45 days, if it is satisfied that there is sufficient cause for not filing it within that period.

6. Mr. Karmakar, learned advocate for the petitioner at this stage prays for leave to withdraw this civil revisional application with liberty to approach the appropriate forum in accordance with law.

7. The petitioner challenged the order passed by the District forum for filing an application under Article 227 of the Constitution of India on 29th September, 2024 and the same was pending before this Court till today (25.03.2025).

8. Considering the fact that this civil revision application was pending after sufficient time and this Court passed an interim order of stay of all further proceedings in the Execution Application No.DC/304/EA/11/2024 till the end of March, 2025

or until further orders, whichever is earlier, it will be open to the petitioner to pray for exclusion of time during which the civil revision application was pending.

9. In the light of the submissions made by Mr. Karmakar, learned advocate appearing for the petitioner, CO 3510 of 2024 stands dismissed as withdrawn with liberty to the petitioner to approach the appropriate forum in accordance with law.

(Hiranmay Bhattacharyya, J.)