

02.05.2025

Sl. no. 12

Ct. No. 42

P.M.

C.R.R. 4386 OF 2022

Raja Bhadra

- vs -

The State of West Bengal & Anr.

1. None appears on behalf of the parties, nor any accommodation is prayed for on their behalf. Several adjournments were granted earlier. Even an adjournment was granted on the previous date, for the ends of justice. This matter has been pending since November 30, 2022. Possibility of their appearance seems bleak. Therefore, I have taken this matter for passing order based on the materials available on record.
2. The petitioner Raja Bhadra, is the Director of Vibgyor Allied Infrastructure Ltd. and Vibgyor Housing Limited. He has filed the present petition for setting aside of the orders **dated June 9, 2022, and September 29, 2022**, passed by the learned District Consumer Disputes Redressal Commission, Baruipur, South 24 Parganas, in **Execution Application No. EA/30/2019**, arising out of **Complaint Case No. CC/158/2016**.
3. The genesis of the dispute lies in a complaint filed by the opposite party No. 2, Gita Biswas, against Vibgyor Allied

Infrastructure Ltd. and Vibgyor Housing Limited (hereinafter referred to as the 'Judgment Debtors'), wherein she alleged that petitioner did not comply the sale agreement **dated December 31, 2012**, executed between them for the purchase of a two BHK flat with a super built-up area of 663 square feet.

4. On the basis of the evidences, the District Consumer Disputes Redressal Commission (hereinafter referred to as 'Commission'), vide its **order dated October 09, 2018**, decreed the complaint, wherein the Judgment Debtors was directed jointly and severally to refund ₹3,94,014/- with interest at 8% per annum from December 31, 2012, until realization, to the complainant, failing which the complainant was at liberty to execute the order.
5. Subsequently, the opposite party No. 2 initiated the aforementioned execution application on non-compliance of the order of the Commission. During the execution proceedings, the decree holder prayed for addition of the petitioner as a Judgment Debtor, which was allowed **on June 09, 2022**, and a warrant of arrest was issued against the petitioner. Subsequently, the prayer of petitioner to expunge his name was rejected by the Commission vide the order dated September 29, 2022. Both orders are the subject matter of this revisional proceedings.

6. The petitioner's prayed for setting aside of both orders dated June 9, 2022, and September 29, 2022, on the ground that:

- a) he was not made a party to the original consumer case (CC/158/2016) as such he did not get an opportunity to contest the allegations at the stage of inception of the proceedings.
- b) Where a separate committee had been constituted by the order of the Hon'ble High Court, only for the entertaining such types of **complaints**, no execution application would be entertained without approaching the committee.
- c) as an Executing Court, the Commission cannot go beyond the decree. Impleading the petitioner as a judgment debtor at the stage of execution is illegal.
- d) highlights a perceived inconsistency in the Commission's approach, citing a similar case (EA No. 31 of 2019) where the name of a non-party was expunged from the execution proceedings.
- e) the petitioner, being a director of Vibgyor Allied Infrastructure Ltd. and Vibgyor Housing Limited, cannot be held personally liable for the companies' **obligation** under the Consumer Protection Act.

- f) the Commission did not follow the proper procedure before issuing a warrant of arrest in EA No. 30 of 2019, such as assessing execution costs and requiring a deposit from the decree holder.
- g) the initiation of the execution proceeding under Section 12 of the Consumer Protection Act is erroneous as it should be initiated under Section 71 of the said Act and in accordance with **Order** 21 of the CPC.
- h) for corporate entities, the commission is only authorized to attach company assets under Section 83 of Cr.P.C. and not **to** issue an arrest warrant against the directors personally, but the order dated 29th September, 2022 was that :

*"JDR Rabindranath Dey **was** not produced today from Baruipur Correctional Home. No payment of the decretal amount has been made today. In view of the same, the Jail **Superintendent** of Baruipur Correctional Home is hereby directed to produce the JDR Rabindranath Dey positively on 11.10.2022" was not passed in consonance of the said provision of law."*

- 7. Therefore, the Commission committed error in passing the impugned orders as was passed in **improper exercise** of

his jurisdiction and **shall not proceed** against the petitioner **as it would be** the abuse of process.

8. I have perused the impugned orders dated June 9, 2022, and September 29, 2022. By the order dated **June 09, 2022**, the prayer of decree holder for the addition of the petitioner as a Judgment Debtor in the execution proceedings, was allowed and a warrant of arrest was issued against the petitioner.
9. The order dated September 29, 2022, addressed an application filed by petitioner for expunging his name, which was rejected by the Commission holding that as a Director of the Judgment Debtor Company, a juristic person, the petitioner is fully responsible for the acts of the company. The Commission did not find merit in the argument of the petitioner, that he despite not being a party to the original complaint, should be expunged from the execution proceedings or that the warrant of arrest issued against him should be recalled.
10. Considering the materials on record, particularly the order dated September 29, 2022, wherein the Commission has already considered and rejected the petitioner's plea for expunging his name, and in the absence of evidences to substantiate the grounds for setting aside the said orders, this Court finds no apparent irregularity, illegality, or

impropriety in the orders passed by the learned District Consumer Disputes Redressal Commission.

11. Accordingly, the present revisional application for setting aside the impugned orders dated June 9, 2022, and September 29, 2022, passed by the Commission, Baruipur, South 24 Parganas, is hereby **dismissed**.

12. There will be no order as to costs.

13. Interim orders if any, stand vacated.

14. Urgent photostat certified copy of this order, duly applied for, be given to the parties upon compliance with all usual requisite formalities.

(Uday Kumar, J.)