



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 1045/2025

PRAKASH S/O DEVIDAS POREY

VERSUS

STATE CONSUMER DISPUTES REDRESSAL COMMISSION, NAGPUR AND ORS.

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri S. S. Ghate, counsel for the petitioner.
Ms. M.S. Naik, AGP for the respondent no. 1.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : SEPTEMBER 24, 2025

1. Heard learned counsel for petitioner as well as respondent no. 1. Nobody appears for respondent nos. 2 to 4, although served.

2. Petitioner's challenge is to the order passed by the State Consumer Disputes Redressal Commission Maharashtra - Circuit Bench Nagpur, thereby dismissing in default the execution application filed by the petitioner.

3. Learned counsel for petitioner submits that the petitioner had filed the execution case for execution of the judgment and order dated 28.01.2020 passed by the State Consumer Disputes Redressal Commission by which the respondents (opposite parties) before the Forum were directed to pay an amount of Rs. 30,06,095/- along with interest at the rate of 18 % per annum which was an alternate relief in the complaint filed by the petitioner. The petitioner had filed the execution proceedings for execution of this judgment, which was being prosecuted through a Lawyer. It is submitted that the respondent nos. 2 to 4 who are facing number of litigations before the Consumer Forum as well as

before other authorities had avoided service of notices of the execution case and although the petitioner had taken steps initially, the service was not effected. It is submitted that the petitioner was in fact contesting the execution proceedings to recover the substantial amount which he had invested and desired to take steps for effecting service through the Lawyer, however, only because steps were not taken in time, the impugned order came to be passed by which the execution application is dismissed in default.

4. Learned counsel for petitioner submits that the petitioner is interested to prosecute the execution proceedings and desires to take steps for effecting service upon the respondents.

5. It is also submitted that the impugned order dismissing the petitioner's execution application although observes that the petitioner has not taken any steps to serve the non-applicants, however, it is incorrect. It is submitted that, after the order was passed by the State Consumer Commission and before the execution proceedings were initiated, the respondents were served with a notice about the execution proceedings and those notices were served on the said address. Therefore, the petitioner was diligent and was taking steps to serve the respondents even in the execution proceedings.

6. Having regard to the totality of facts and circumstances, it is clear that the order passed by the Commission dismissing the execution application only on account of lack of steps to serve the respondents cause a serious prejudice to the rights of the petitioner. The petitioner has got an order in his favour passed by the Commission directing refund of an amount of Rs. 30,06,095/- with interest, which the petitioner is entitled to execute. The impugned

order to dismiss the execution case is harsh in view of peculiar facts of this case. The petitioner cannot be deprived of his right to prosecute the execution proceedings and therefore in the interest of justice, the impugned order passed by the State Consumer Commission is quashed and set aside. The execution case filed by the petitioner bearing no. EA/23/1 stands restored. The petitioner is permitted to effect service upon the respondents in the execution case by way of paper publication by filing appropriate application before the State Consumer Commission.

7. The petitioner is directed to appear before the respondent no. 1 - Commission on 6th of October 2025. He is entitled to file an application for paper publication to serve the respondents. In case such application is filed, the same may be decided within a period of two weeks.

8. In view of peculiar facts of this case, the State Consumer Disputes Redressal Commission Maharashtra - Circuit Bench Nagpur, is requested to decide the execution application preferably within a period of six months after it is restored.

9. Writ petition is accordingly disposed of. No costs.

(PRAFULLA S. KHUBALKAR, J.)