

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION, U.T.  
CHANDIGARH  
[ADDITIONAL BENCH]**

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Revision Petition No.	:	RP/35/2024
Date of Institution	:	12/04/2024
Date of Decision	:	15/07/2024

1. The Branch Manager, **ICICI Bank Limited**, C/o British School, Sector 44-B, Chandigarh.

The Managing Director (C/o Nodal Officer), **ICICI Bank Limited**, ICICI Bank Towers, South Tower, West Wing, 2<sup>nd</sup> Floor, Bandra Kurla Complex, Mumbai - 400 051.

..... Petitioners/Judgment Debtors

V E R S U S

1. **P.R. Singhania**, H.No.3029, 2<sup>nd</sup> Floor, Ajanta Enclave, Sector 51-D, Chandigarh - 160047.
2. **Rupshikha Singhania**, H.No.3029, 2<sup>nd</sup> Floor, Ajanta Enclave, Sector 51-D, Chandigarh - 160047.
3. **Abhishek Singhania**, H.No.3029, 2<sup>nd</sup> Floor, Ajanta Enclave, Sector 51-D, Chandigarh - 160047.

..... Respondents/Decree Holders

**BEFORE:**    **MRS. PADMA PANDEY**                      **PRESIDING MEMBER**  
                  **PREETINDER SINGH**                              **MEMBER**

**PRESENT** : Sh. Sandeep Suri, Advocate, along with  
                  Sh. Kartik Parmod Goyal, Advocate for the Revision Petitioners.  
                  Sh. P.R. Singhania, Advocate for himself and on behalf of other  
                  Respondents.

**PER PADMA PANDEY, PRESIDING MEMBER**

1. Challenge in the present Revision Petition is to the order dated 30.01.2024 passed by the District Consumer Disputes Redressal Commission-II, T. Chandigarh (for brevity hereinafter to be



referred as the "Ld. District Commission") in Exe. Application No.86 of 2023 (in CC/1104/2019), whereby it issued bailable warrants against the Judgment Debtors in the sum of ₹50,000/- each with one surety of alike amount for 12.04.2024. For the sake of precision, the order dated 30.01.2024, reads as under: -

*"The DH has fled Misc. Application No. 105 of 2024 dated 30.01.2024 for placing on record the details of decreed amount paid by the JDs. Copy be supplied.*

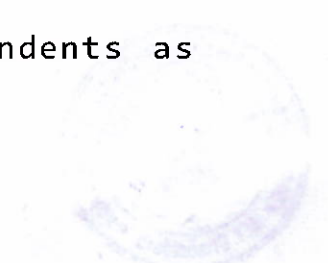
*Vakalatnama has not been filed on behalf of JDs.*

*Now presence of JDs be secured through bailable warrants in the sum of Rs.50,000/- each with one surety of alike amount for 12.04.2024."*

2. The core question that falls for consideration is as to whether the Ld. District Commission has rightly passed the order impugned before us.

3. Having bestowed our anxious consideration to the matter, we are of the opinion that in the light of the material on record, answer to the question posed has to be in negative.

4. We have heard Sh. P.R. Singhania, Advocate for himself and on behalf of other Respondents as



well as the Learned Counsel for the Revision Petitioner and also carefully perused the record with their able assistance.

5. The backdrop of the case is that the Respondents/Decree Holders preferred Exe. Application No. 86 of 2023 under Section 72 of the Consumer Protection Act, 2019 for execution of the order dated 12.04.2023 passed by the Ld. District Commission in Consumer Complaint No.1104 of 2019, wherein the following relief was granted:-

*"9. In view of the above discussion, the present Complaint deserves to be partly allowed and the same is accordingly partly allowed. The OPs are directed to pay Rs.40,000/- (Forty Thousand Only) as Lump sum compensation to the Complainants on account of interest for delayed period and for the physical and mental harassment as well as litigation expenses.*

*10. This order be complied with by the OPs jointly and severally, within 60 days from the date of receipt of its certified copy, failing which the Complainants shall be at liberty to get the order enforced through the indulgence of this Commission."*

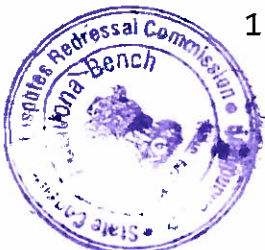
6. Learned Counsel for the Petitioners/Judgment Debtors argued that the order dated 12.04.2023 passed by the Ld. District Commission had already been complied with and the awarded sum of ₹40,000/- had been received by the Respondents/



Decree Holders vide Demand Draft bearing no. 505566 dated 13.09.2023. Now, nothing further was required to be carried by the Petitioners/ Judgment Debtors for the purpose of the compliance of the said order nor there is any shortfall in payment of the awarded amount.

7. Per contra, Decree Holder No.1 (Sh.P.R. Singhanian) submitted that the Petitioners/ Judgment Debtors complied with the order only on 22.11.2023 on which date a Demand Draft No. 505566 dated 13.09.2023 for decretal amount of ₹40,000/- was handed over i.e. after a massive delay of 146 days. The Judgment Debtors have thus wilfully, deliberately and intentionally flouted, defied and disobeyed the order dated 12.04.2023 of Ld. District Commission. On these precincts, it has been asserted that the Ld. District Commission has correctly passed the impugned order dated 30.01.2024 within the ambit of the provisions of Section 72 of the Consumer Protection Act, 2019.

8. Record transpires that on 14.09.2023, notice of the execution application under Section 72 of the Act was given to the Judgment Debtors for 17.11.2023 to appear for filing objections, if any,



or for compliance of the order. On 17.11.2023, Sh.Kartik, Advocate entered appearance on behalf of Judgment Debtors by filing his memo of appearance and the matter was adjourned to 30.01.2024 for compliance of the order, on which date the impugned order came to be passed by the Ld. District Commission.

9. Notably, in order to secure the presence/ attendance of the Judgment Debtors, a notice of showing cause is to be issued by the Ld. District Commission and once the Judgment Debtors have put in appearance whether in person or through Counsel, coercive process need not be issued. In other words, when the purpose of issuing a show cause is achieved by the presence of the Judgment Debtors through the Counsel, the issuance of further process by issuing warrant of arrest to secure the presence is rendered unnecessary. In the present case, when firstly, the order dated 12.04.2023 passed by the Ld. District Commission already stands complied with before the institution of the execution application and secondly, when pursuant to notice once the Judgment Debtors put in appearance through Sh. Kartik, Advocate, the impugned order issuingailable warrants for



12.04.2024 is unwarranted, excessive and without any legal basis. It is pertinent to add here, mere delay in complying with the order, unless there is a deliberate or wilful act on the part of the Judgment Debtors would not attract the provisions of Section 72 of the Consumer Protection Act, 2019, especially when there is no shortfall in payment of the awarded amount. Moreover, it is a settled law that bailable warrants are to be issued as a last resort and only in a case where it is found that the Judgment Debtors are not cooperating at all and that they are avoiding appearance before the executing court deliberately and/or they are not represented at all either through their authorized representative or through their counsel. At any rate, warrants are to be issued in extremely rare cases and not in a normal manner. Thus, the Ld. District Commission has acted in exercise of its jurisdiction illegally and with material irregularity. Hence, the impugned order passed by the Ld. District Commission is liable to be set aside and the revision petition deserves to be allowed.



10. In the result, the Revision Petition is allowed, and the decision dated 30.01.2024 of the

Ld. District Commission, is set aside insofar it relates to the issuance of bailable warrants. The execution application is still pending before the Ld. District Commission for decision on merit. Parties are directed to appear before the Ld. District Commission-II, UT, Chandigarh on 01.08.2024, on which date, execution case is already listed before it.

11. Complete record of complaint file be sent back to the Ld. District Commission-II, U.T. Chandigarh alongwith certified copy of this order, so as to reach there before the date fixed.

12. The pending application(s), if any, stand disposed off accordingly.

13. Certified Copies of this order be sent to the parties, free of charge. The file be consigned to Record Room, after completion.

Pronounced  
15<sup>th</sup> July 2024

