
THE
PUNJAB LAW REPORTER
&

SC e@Journal

Punjab Law Reporter
reporting since 1900



plr@plronline.in
+91 9463598502

Subscription
SCe@Journal 2021 – Rs 1000/-
(email delivery)
Punjab Law Reporter 2021 – Rs 2800/-
(4 volumes approx 3300 pages sent monthly)

[Click here to subscribe](#)

www.PLRonline.in

above reasons, while allowing the appeal, we issue the following directions:

(i) The impugned judgment and order of the Division Bench of the High Court of Karnataka dated 17 September 2019 affirming the order of eviction against the appellant shall stand set aside with the consequence that the order of the Assistant Commissioner ordering and directing the appellant to vacate the suit premises shall stand set aside;

(ii) We leave it open to the appellant to pursue her remedies under the PWDV Act 2005. For that purpose, it would be open to the appellant to seek the help of the District Legal Services Authorities and if the appellant does so, all necessary aid and assistance shall be furnished to her in pursuing her legal remedies and rights;

(iii) IA 111352/2020 for restoration of the electricity connection is allowed by directing the Fourth respondent to take all necessary steps for restoration of the electricity connection to the premises within a period of two weeks from the receipt of a certified copy of this judgment. The Fourth respondent shall also continue to pay the electricity dues in future; and

(iv) In order to enable the appellant to pursue her remedies under the PWDV Act 2005, there shall be an order and direction restraining the respondents from forcibly dispossessing the appellant, disposing of the premises or from creating any right, title and interest in favor of any third party in any manner whatsoever for a period of one year, to enable the appellant to pursue her remedies in accordance with law. The appellant is at liberty to move the Court to espouse her remedies under the PWDV Act 2005 for appropriate orders, including interim protections.

The directions contained in (iii) and (iv) above emanate in exercise of the powers of this Court under Article 142 of the Constitution.

25. The Appeal is allowed in the above terms. The appellant is entitled to costs quantified at Rs 25,000 from the private respondents.

26. Pending application(s), if any, stand disposed of.
SS

Appeal Allowed

(2021-1)201 PLR 138 (SC)

SUPREME COURT OF INDIA

Before: Justice Vineet Saran and Justice S. Ravindra Bhat, JJ.

M/s. SS GROUP PVT. LTD. – Appellant,

Versus

AADITIYA J. GARG & Anr. – Respondents

CIVIL APPEAL NO.4085 OF 2020(Arising out of SLP (C) No.13636 of 2020), CIVIL APPEAL NO.4086 OF 2020(Arising out of SLP (C) No.14309 of 2020), CIVIL APPEAL NO.4087 OF 2020(Arising out of SLP (C) No.14226 of 2020), CIVIL APPEAL NO.4088 OF 2020(Arising out of SLP (C) No.14252 of 2020), CIVIL APPEAL NO.4089 OF 2020(Arising out of SLP (C) No.14228 of 2020), CIVIL APPEAL NO.4090 OF 2020(Arising out of SLP (C) No.14716 of 2020), CIVIL APPEAL NO.4091 OF 2020(Arising out of SLP (C) No.14213 of 2020), CIVIL APPEAL NO.4092 OF 2020(Arising out of SLP (C) No.14233 of 2020), CIVIL APPEAL NO.4093 OF 2020(Arising out of SLP (C) No.14181 of 2020)

17.12.2020

(i) Limitation – Covid19 - Suo Motu Writ Petition (Civil) No.3 of 2020 - Order dated 23.03.2020 is still operative and by subsequent orders, the scope has been enlarged so that the said order applies in other proceedings also.

(ii) Consumer Protection Act, 2019 , Section 38(2)(a) – Period for filing written statement expired (August, 2020) when the order dated 23.03.2020

passed by this Court in SMW(C) No.3 of 2020 was continuing - Limitation for filing the written statement before the National Commission would be deemed to have been extended – Limitation – Covid19.

Cases referred to:

1. 2020 SCeJ 171, *New India Assurance Co.Ltd. v. Hilli Multipurpose Cold Storage (P) Ltd.*

For Petitioner(s) Mr. Sanjay K. Shandilya, Adv.Mr. Apoorva Agarwal, Adv.Mr. Abhishek, Adv.Mr. Mushtaq Ahmad, AOR. For Respondent(s) Mr. Naveen Kumar, Adv.(On Caveat

Orders relating to Sua Motu Writ Petition (Civil) No.3 of 2020 reported at :

Order dated 23.03.2020 (2020 SCeJ 944, (2020-3)199 PLR 110 (SC))

Order dated 06.05.2020 (2020 SCeJ 945, (2020-3)199 PLR 110 (SC))

Order dated 10.07.2020 (2020 SCeJ 1702, (2020-4)200 PLR 102 (SC))

Order dated 10.07.2020 (2020 SCeJ 1705, (2020-4)200 PLR 105 (SC))

ORDER

Leave granted.

2. This batch of civil appeals has been filed by the appellant/builder challenging the order dated 07.09.2020 passed by the National Consumer Disputes Redressal Commission, New Delhi (“the National Commission”, for short).

3. The respondents herein had booked the flats with the appellant and since the flats were allegedly not delivered on time, the respondents filed Consumer Complaints before the National Commission claiming refund of money.

4. The notices in each of the complaint petitions were issued by the National Commission in June 2020 and were received by the appellant on 13.07.2020 in each of complaint cases.

5. It is submitted that as per Section 38(2)(a) of the Consumer Protection Act, 2019, 30 days time is provided for filing written statement, which could be extended for a further period of 15 days. In the present matter, the period of 30 days expired on 12.08.2020 and extended period of 15 days expired on 27.08.2020.

6. Admittedly, the written statement/reply was filed by the appellant before the National Commission on 31.08.2020, which filing was beyond the period of 45 days. The National Commission thus declined to take the written statement on record in view of the Constitution Bench decision of this Court in *New India Assurance Co.Ltd. v. Hilli Multipurpose Cold Storage (P) Ltd.*, 2020 SCeJ 171, (2020) 5SCC 757, wherein it has been held that the Consumer Court has no power to extend the time for filing the response to the complaint beyond 45 days. Said decision of the National Commission is presently under challenge in these appeals.

7. We have heard Mr. Sanjay K. Shandilya, learned counsel appearing for the appellant and Mr. Naveen Kumar, learned counsel appearing for the respondents on caveat. Learned counsel for the respondents submits that the respondents do not wish to file counter affidavit and, therefore, these appeals be disposed of.

8. With the assistance of the learned counsel for both the sides, we have carefully perused the record. It is true that the decision of the Constitution Bench of this Court in *New India Assurance Co. Ltd.*(supra) clearly provides that no written statement is to be allowed to be filed beyond the period of 45 days as per Section 38 of the Consumer Protection Act, 2019. However, in this context, it is noteworthy to refer to the order dated 23.03.2020 passed by this Court in SMW(C)No.3 of 2020, titled as “In Re: Cognizance for Extension of Limitation”, which reads as under:

“This Court has taken Sua Motu cognizance of the situation arising out of the

challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions / applications / suits / appeals / all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State).

To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.

We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that this order is a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities.

This order may be brought to the notice of all High Courts for being communicated to all subordinate Courts/Tribunals within their respective jurisdiction.

Issue notice to all the Registrars General of the High Courts, returnable in four weeks.” (Emphasis supplied)

9. The above order is still operative and by subsequent orders, the scope has been enlarged so that the said order applies in other proceedings also.

10. In the present matter, it is an admitted fact that the period of limitation of 30 days to file the written statement had expired on 12.08.2020 and the extended period of 15 days expired on 27.08.2020. This period expired when the order dated 23.03.2020 passed by this Court in SMW(C) No.3 of 2020 was continuing.

11. In view of the aforesaid, in our opinion, the limitation for filing the written statement in the present proceedings before the National Commission would be deemed to have been extended as it is clear from the order dated 23.03.2020 that the extended period of limitation was applicable to all petitions / applications / suits / appeals and all other proceedings. As such, the delay of four days in filing the written statements in the pending proceedings before the National Commission deserves to be allowed, and is accordingly allowed.

12. In the circumstances, we allow these appeals, set-aside the order passed by the National Commission and direct that (i) the written statement filed by the appellant shall be taken on record; and, (ii) the matter shall thereafter be proceeded with expeditiously and in accordance with law. With the aforesaid observations, the appeals are allowed with no order as to costs.

SS