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L & T FINANCE LTD.

v.

PRAMOD KUMAR RANA & ANR.

(Civil Appeal Nos. 5894-5895 of 2021)

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NOVEMBER 25, 2021

[M. R. SHAH AND B. V. NAGARATHNA, JJ.]

Administration of justice: Consumer complaint before National Commission against original opposite party no.1 and 2 – On the date of hearing, submission made by counsel of original party no.1 that matter was settled between the parties – On the next date of hearing, complainant made grievance that he was forced by the representatives of the two opposite parties to sign on blank papers and visits threatening him were made by their representatives to force him into a “settlement” – On 26.08.2021, National Commission directed the directors of the two companies to appear on the next date in person, either in physical hearing or through video conferencing with counsel to clarify their position with regard to these allegations – On next hearing, the director of original opposite party no.1 appeared through video conferencing – However, on behalf of original opposite party no.2, the authorised representatives and their counsel only appeared before the National Commission – The director did not appear as directed – Submission made on his behalf that application seeking exemption from appearance was moved which was pending in the Registry – On 3.9.2021, National Commission again directed the directors of both the companies to appear on next date – The director of original opposite party no.2 again did not appear – It was pointed out that against order dated 26.08.2021, a review application was filed which was pending – By order dated 16.9.2021, National Commission directed to issue bailable warrants against the director of original opposite party no.2 and directed his production before it on next date – Aggrieved original opposite party no.2 filed instant appeal – Held: The allegations made by the complainant were serious in nature – However, at the same time, the allegations were yet to be considered in detail by National Commission, after giving an opportunity to the opposite parties – The opposite parties were represented through their counsels and also through their authorised

representatives – No specific allegations were recorded in order dated 26.08.2021 against the director of original opposite party No.2 – Even the review application against order dated 26.08.2021 was pending before the Tribunal – Therefore, in the facts and circumstances of the case, issuance ofailable warrant was not warranted at this stage – Aailable warrants are to be issued as a last resort and only where it is found that the opponent parties are not cooperating at all and that they are avoiding appearance deliberately and/or they are not represented at all either through their authorised representative or through their counsel – Orders dated 26.08.2021, 03.09.2021 and 16.09.2021 are quashed – At this stage, original opposite party No.2 is permitted to be represented through authorised representatives and through counsel – However, it will be open for the National Commission to require the presence of the director of the appellant company, if required, in future.

Partly allowing the appeals, the Court

HELD: It is true that if the allegations made by the original complainant recorded in order dated 26.08.2021 “to pressurize him and giving threats to enter into settlement” are found to be true, the same are very serious and can be said to be interfering in the administration of justice. However, at the same time, the allegations are yet to be considered in detail by the National Commission after giving an opportunity to the opposite parties. The opposite parties are represented through their counsel and even through their authorised representatives, who remained present before the National Commission. Even as per the allegations made by the complainant recorded in order dated 26.08.2021, the representatives of the opposite companies gave threats and forced him to enter into settlement and there were no specific allegations against the Director of original opposite party No.2. Even the review application against order dated 26.08.2021 is pending before the Tribunal. Therefore, in the facts and circumstances of the case, issuance of theailable warrants against the director of original opposite party No.2 was not warranted at this stage. It cannot be disputed that free access and unfettered right to approach/justice, as permissible by law, is inbuilt in our judicial system where rule of law prevails. Any

- A attempt to impede or obstruct the course of justice, not to speak of exercising any coercion against anybody, who is before the court or authority in order to seek justice, cannot be lightly taken or be countenanced with. However, at the same time, the case of the complainant is yet to be adjudicated upon and/or established and proved and the opportunities are to be given to the opposite parties. In view of that, orders dated 26.08.2021 and 03.09.2021 directing the director of the appellant company to personally remain present through physical mode or through video conferencing and subsequent order dated 16.09.2021 issuing bailable warrants are quashed and set aside. However, it will be open for the National Commission to pass further order after giving opportunity to both the opposite parties to represent their case on the allegations made by the original complainant recorded in order dated 26.08.2021. At this stage, the appellant-original opposite party No.2 be permitted to be represented through his authorised representatives and through his counsel. However, it will be open for the National Commission to require the presence of the Director of the appellant company, if required, in future. Review application to recall order dated 26.08.2021 pending before the National Commission, may be heard, decided and disposed of by the National Commission in accordance with law and on merits. [Paras 5.1, 6][951-C-G; 952-C-D, E-H; 953-A]
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CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 5894-5895 of 2021.

- F From the Judgment and Order dated 26.08.2021 and 03.09.2021 of the National Consumer Dispute Redressal Commission in Consumer Complaint No.1653 of 2018.

Ms. Ruchi Kohli, Ms. Usha Singh, Ms. Nidhi Saini, Ms. Srishti Mishra, Advs. for the Appellant.

The Judgment of the Court was delivered by

- G **M. R. SHAH, J.**

1. Feeling aggrieved and dissatisfied with the impugned orders dated 26.08.2021, 03.09.2021 and the subsequent order dated 16.09.2021 passed by the National Consumer Disputes Redressal Commission

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(hereinafter referred to as “National Commission”) passed in Consumer Complaint No.1653 of 2018, the original opposite party No.2 – L & T Finance Ltd. has preferred the present appeals. A

2. Facts leading to the present appeals in a nutshell are as under:-

2.1 That one complaint being Consumer Complaint No.1653 of 2018 filed by the respondent No.1 Pramod Kumar Rana is pending before the National Commission. The aforesaid complaint came up for hearing before the National Commission on 12.08.2021. Learned counsel for the original opposite party No.1 – M/s. Paramount Villas Pvt. Ltd. & Anr. made a submission on the instructions that the matter has been settled between the parties. Learned counsel for the complainant requested for an adjournment to seek instructions in this respect. The matter was adjourned to 26.08.2021. B C

2.2 The complaint was taken up for further hearing on 26.08.2021. Learned counsel appearing for the original opposite party No.1 again submitted on instructions that the matter has been settled between the parties. However, the complainant, who appeared in person, made a grievance that he has been pressurised/forced by the representatives of the two opposite parties to sign on blank papers and visits threatening him were made to his residence by the representatives to force him into a “settlement” which according to him is neither amicable nor voluntary and nor equitable. The National Commission by order dated 26.08.2021 directed Shri Mukesh Aggarwal, Director of the original opposite party No.1 company and one Shri Dinanath Mohandas Dubhashi, Director of original opposite party No.2 company to appear in person, either in physical hearing or through video conferencing with counsel on the next date of hearing to explain the situation and clarify their position with regard to the allegations made by the complainant. The matter was adjourned to 03.09.2021. D E F

2.3 On 03.09.2021, the said Shri Mukesh Aggarwal, Director of the original opposite party No.1 appeared through video conferencing. On behalf of original opposite party No.2, the authorised representatives and their counsel appeared before the National Commission. However, Shri Dinanath Mohandas Dubhashi, Director of the original opposite party No.2, who was required to appear as per previous order dated 26.08.2021, did not appear. It was submitted on his behalf that an application seeking exemption for his personal appearance had been moved, which was pending in the Registry. The National Commission directed to list the G H

A case again on 16.09.2021 and directed that on that date, both Shri Mukesh Aggarwal and Shri Dinanath Mohandas Dubhashi shall also appear either personally or through video conferencing.

2.4 That on 16.09.2021, Shri Mukesh Aggarwal, Director of the original opposite party No.1 remained present. However, again Shri Dinanath Mohandas Dubhashi did not remain present. It was pointed out that against the order dated 26.08.2021, a review application was filed, which is pending. As Shri Dinanath Mohandas Dubhashi, Director of the original opposite party No.2 company did not remain present, by order dated 16.09.2021, the National Commission directed to issue bailable warrants against Shri Dinanath Mohandas Dubhashi, Director of the original opposite party No.2 company and directed that Shri Dinanath Mohandas Dubhashi be produced in person before the National Commission on 18.10.2021. Feeling aggrieved and dissatisfied with the impugned orders dated 26.08.2021, 03.09.2021 and 16.09.2021, the original opposite party No.2 – L& T Finance Ltd. has preferred the present appeals.

3. Though served nobody has remained present on behalf of the respondent No.1 – original complainant.

4. We have heard Ms. Ruchi Kohli, learned Advocate appearing on behalf of appellant – original opposite party No.2 company.

5. Having gone through and perused the impugned orders passed by the National Commission, it appears that in view of the allegations made by the original complainant recorded in the order dated 26.08.2021 that “he has been forced by the representatives of the two opposite parties to sign on blank papers and threatening visits were made to his residence by the representatives to force him into a settlement”, the impugned orders have been passed by the National Commission by observing as under in the order dated 26.08.2021:-

“The allegations, as have been made by the complainant, are of serious nature and may have grave implications. This Commission is a lawfully created tribunal in order to adjudicate upon the issues relating to consumer disputes and arrive at just conclusions. Anybody and everybody who feels aggrieved and for whom redress may be provided under the Act can approach this Commission invoking its jurisdiction as provided by law. Free access and unfettered right to approach, as permissible by law, is inbuilt

in the system where rule of law prevails. Any attempt to impede such a course, not to speak of exercising coercion against anybody, cannot be rightly taken or be countenanced with. The matter requires explanation forthwith.” A

5.1 As, on the subsequent dates, Shri Dinanath Mohandas Dubhashi, the Director of the original opposite party No.2 company did not remain present, subsequent orders have been passed dated 03.09.2021 and 16.09.2021 and by the order dated 16.09.2021, bailable warrants have been issued against him by further directing that he may be produced before the National Commission on 18.10.2021. However, it is required to be noted that all throughout the representatives of original opposite party No.2 company and their counsel remained present before the National Commission. It is true that if the allegations made by the original complainant recorded in the order dated 26.08.2021 “to pressurize him and giving threats to enter into settlement” are found to be true, the same are very serious and can be said to be interfering in the administration of justice. However, at the same time, the allegations are yet to be considered in detail by the National Commission after giving an opportunity to the opposite parties. The opposite parties are represented through their counsel and even through their authorised representatives, who remained present before the National Commission. It is also required to be noted that even as per the allegations made by the complainant recorded in the order dated 26.08.2021, the representatives of the opposite companies gave threats and forced him to enter into settlement and there were no specific allegations against the Director of original opposite party No.2 – Shri Dinanath Mohandas Dubhashi. Be that it may, even the review application against the order dated 26.08.2021 is pending before the Tribunal. Therefore, in the facts and circumstances of the case, issuance of the bailable warrants against Shri Dinanath Mohandas Dubhashi, the Director of original opposite party No.2 was not warranted at this stage. Bailable warrants are to be issued as a last resort and only in a case where it is found that the opponent parties are not cooperating at all and that they are avoiding appearance before the National Commission deliberately and/or they are not represented at all either through their authorised representative or through their counsel. In the present case, the allegations made by the original complainant recorded in the order dated 26.08.2021 are yet to be considered in detail by the National Commission after giving opportunity to both the opposite parties. The opposite parties are represented through their counsel and the B
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- A authorised representatives and even the Director of the original opposite party No.1 company has always remained present in person before the National Commission through video conferencing as directed. Therefore, issuance of bailable warrants and the directions issued by the National Commission directing Shri Dinanath Mohandas Dubhashi, Director of original opposite party No.2 company to be produced, was not warranted
- B at all at this stage. If at all subsequently, it is found that anybody has tried to pressurize the original complainant and pressurized him to enter into settlement and any threatening visits were made to the residence of the original complainant, further order can be passed by the National Commission. It cannot be disputed that free access and unfettered right
- C to approach/justice, as permissible by law, is inbuilt in our judicial system where rule of law prevails. Any attempt to impede or obstruct the course of justice, not to speak of exercising any coercion against anybody, who is before the court or authority in order to seek justice, cannot be lightly taken or be countenanced with. However, at the same time, the case of the complainant is yet to be adjudicated upon and/or established and
- D proved and the opportunities are to be given to the opposite parties. It is to be noted that as such, appellant has been appearing through their counsel and their authorised representatives and even Shri Mukesh Aggarwal, Director of original opposite party No.1 has remained present in person either through physical mode or through video conferencing.
- E 6. In view of the above and for the reasons stated above, the orders dated 26.08.2021 and 03.09.2021 directing Shri Dinanath Mohandas Dubhashi, Director of the appellant company to personally remain present through physical mode or through video conferencing and the subsequent order dated 16.09.2021 issuing bailable warrants
- F against him are quashed and set aside. However, as observed hereinabove, it will be open for the National Commission to pass further order after giving opportunity to both the opposite parties to represent their case on the allegations made by the original complainant recorded in the order dated 26.08.2021. At this stage, the appellant herein – original
- G opposite party No.2 be permitted to be represented through his authorised representatives and through his counsel. However, it will be open for the National Commission to require the presence of Shri Dinanath Mohandas Dubhashi, Director of the appellant company, if required, in future. It is reported that a review application to review or recall the order dated 26.08.2021 is pending before the National Commission. Therefore, now,
- H the same may be heard, decided and disposed of by the National

Commission in accordance with law and on merits without being in any way influenced by any of the observations made in the present order. It is also made clear that we have not expressed anything in favour of either of the parties on the allegations made by the original complainant recorded in the order dated 26.08.2021. A

Present appeals are allowed to the aforesaid extent only. However, in the facts and circumstances of the case, there shall be no order as to costs. Pending applications, if any, also stand disposed of. B

Devika Gujral

Appeals partly allowed.