

# Sandeep Jain vs Salil Bakshi on 26 October, 2021

**Author: Amit Bansal**

**Bench: Amit Bansal**

\$~20 to 57, 62, 78, 79, 88, 105, 115, 140 & 148

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CM(M) 727/2021

SANDEEP JAIN

Through: Mr. Shalabh Singhal, Ad  
versus

SALIL BAKSHI

Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 728/2021

SANDEEP JAIN

Through: Mr. Shalabh Singhal, Ad  
versus

BHUPESH RAVISH

Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 729/2021

SANDEEP JAIN

Through: Mr. Shalabh Singhal, Ad  
versus

NEHA SIKRI & ANR.

Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 730/2021

SANDEEP JAIN

Through: Mr. Shalabh Singhal, Ad  
versus

AMIT GUPTA & ANR.

Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 731/2021

SANDEEP JAIN

Through: Mr. Shalabh Singhal, Ad

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By:ARUNA KANWAR

CM(M) 727/2021 and connected matters

Signing Date:27.10.2021

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	versus	
	RAJ KISHORE & ANR.	.....
	Through:	Mr. Sahil Sethi with Ms Sharma, Advocates.
+ CM(M) 732/2021		
SANDEEP JAIN		.....
	Through:	Mr. Shalabh Singhal, Ad
	versus	
	PREETI AHUJA & ANR.	.....
	Through:	Mr. Sahil Sethi with Ms Sharma, Advocates.
+ CM(M) 733/2021		
SANDEEP JAIN		.....
	Through:	Mr. Shalabh Singhal, Ad
	versus	
	DHEERAJ SHARMA	.....
	Through:	Mr. Sahil Sethi with Ms Sharma, Advocates.
+ CM(M) 734/2021		
SANDEEP JAIN		.....
	Through:	Mr. Shalabh Singhal, Ad
	versus	
	ANIL KUMAR GUPTA	.....
	Through:	Mr. Sahil Sethi with Ms Sharma, Advocates.
+ CM(M) 735/2021		
SANDEEP JAIN		.....
	Through:	Mr. Shalabh Singhal, Ad
	versus	
	PUSPENDER KUMAR & ANR.	..... Respondents
	Through:	Mr. Sahil Sethi with Ms. Nikita Sharma, Advocates.
+ CM(M) 736/2021		

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CM(M) 727/2021 and connected matters

SANDEEP JAIN		.....
	Through:	Mr. Shalabh Singhal, Ad
	versus	
NAVNEET YADAV		.....
	Through:	Mr. Sahil Sethi with Ms Sharma, Advocates.

- + CM(M) 737/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
MUKESH KUMAR MITTAL ..... Respondent  
Through: Mr. Sahil Sethi with Ms. Nikita  
Sharma, Advocates.
- + CM(M) 738/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
BANWARI LAL GUPTA .....  
Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.
- + CM(M) 739/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
MUNISH SINGLA .....  
Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.
- + CM(M) 740/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
PRASHANT KUMAR & ANR. .... Respondents  
Through: Mr. Sahil Sethi with Ms. Nikita  
Sharma, Advocates.

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- + CM(M) 741/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
PREETI AHUJA & ANR. ....  
Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.
- + CM(M) 742/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
PUSPENDER KUMAR & ANR. .... Respondents  
Through: Mr. Sahil Sethi with Ms. Nikita

Sharma, Advocates.

- + CM(M) 743/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
SWADESH KUMAR .....  
Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.
- + CM(M) 744/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
RAJESH KUMAR YADAV .....  
Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.
- + CM(M) 745/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
MUKESH KUMAR MITTAL .....

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CM(M) 727/2021 and connected matters

Through: Mr. Sahil Sethi with M  
Sharma, Advocates.

- + CM(M) 746/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
SHALINI ARORA & ANR. ....  
Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.
- + CM(M) 747/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
BANWARI LAL GUPTA .....  
Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.
- + CM(M) 748/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad

versus  
RAJESH KUMAR YADAV

Through:

.....  
Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 749/2021  
SANDEEP JAIN

Through:

.....  
Mr. Shalabh Singhal, Ad

versus

KAILASH SAKHARE

Through:

.....  
Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 750/2021  
SANDEEP JAIN

Through:

.....  
Mr. Shalabh Singhal, Ad

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CM(M) 727/2021 and connected matters

Signing Date:27.10.2021  
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versus  
PRASHANT KUMAR & ANR.

Through: Mr. Sahil Sethi with Ms. Nikita  
Sharma, Advocates.

..... Respondents

+ CM(M) 751/2021  
SANDEEP JAIN

Through:

.....  
Mr. Shalabh Singhal, Ad

versus

SHALINI ARORA & ANR.

Through:

.....  
Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 752/2021  
SANDEEP JAIN

Through:

.....  
Mr. Shalabh Singhal, Ad

versus

SANGEET BALI & ANR.

Through:

.....  
Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 753/2021  
SANDEEP JAIN

Through:

.....  
Mr. Shalabh Singhal, Ad

versus

SANGEET BALI & ANR.

Through:

.....  
Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 754/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
SUBE SINGH .....  
Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 755/2021

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CM(M) 727/2021 and connected matters  
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SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
NEHA SIKRI & ANR. ....  
Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 756/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
SUBE SINGH .....  
Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 757/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
AKASH GUPTA & ORS. ....  
Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 758/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
DHEERAJ SHARMA .....  
Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 759/2021  
SANDEEP JAIN .....  
Through: Mr. Shalabh Singhal, Ad  
versus  
RAJ KISHORE & ANR. ....

Through:

Mr. Sahil Sethi with Ms  
Sharma, Advocates.

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CM(M) 727/2021 and connected matters

+ CM(M) 760/2021  
SANDEEP JAIN

Through:  
versus

RAJNEESH SINGH & ANR.

Through: Mr. Sahil Sethi with Ms. Nikita  
Sharma, Advocates.

+ CM(M) 761/2021  
SANDEEP JAIN

Through:  
versus

SHRUTI PODDAR & ANR.

Through:

Mr. Shalabh Singhal, Ad

Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 762/2021  
SANDEEP JAIN

Through:  
versus

SHRUTI PODDAR & ANR.

Through:

Mr. Shalabh Singhal, Ad

Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 763/2021  
SANDEEP JAIN

Through:  
versus

MUNISH SINGLA

Through:

Mr. Shalabh Singhal, Ad

Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 764/2021  
SANDEEP JAIN

Through:  
versus

BHUPESH RAVISH

Mr. Shalabh Singhal, Ad

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By:ARUNA KANWAR

CM(M) 727/2021 and connected matters

Signing Date:27.10.2021

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Through: Mr. Sahil Sethi with Ms. Sharma, Advocates.

+ CM(M) 769/2021  
SANDEEP JAIN .....

Through: Mr. Shalabh Singhal, Ad  
versus

AMIT GUPTA & ANR. ....

Through: Mr. Sahil Sethi with Ms. Sharma, Advocates.

+ CM(M) 785/2021  
SANDEEP JAIN .....

Through: Mr. Shalabh Singhal, Ad  
versus

RAJNEESH SINGH & ANR. .... Respondents

Through: Mr. Sahil Sethi with Ms. Nikita Sharma, Advocates.

+ CM(M) 786/2021  
SANDEEP JAIN .....

Through: Mr. Shalabh Singhal, Ad  
versus

SWADESH KUMAR .....

Through: Mr. Sahil Sethi with Ms. Sharma, Advocates.

+ CM(M) 795/2021  
NITIN AGGARWAL .....

Through: Mr. Shalabh Singhal, Ad  
versus

NAVNEET YADAV .....

Through: Mr. Sahil Sethi with Ms. Sharma, Advocates.

+ CM(M) 812/2021  
SANDEEP JAIN .....

Through: Mr. Aaditya Vijay Kumar

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CM(M) 727/2021 and connected matters

Signing Date:27.10.2021

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versus

KUSHAL VERMA .....

Through: none.

+ CM(M) 822/2021



SANDEEP JAIN

Through: Mr. Aaditya Vijay Kumar

versus

AMIT AGARWAL

Through: none.

+ CM(M) 847/2021  
SANDEEP JAIN

Through: Mr. Shalabh Singhal, Ad  
versus

NAVNEET YADAV

Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.

+ CM(M) 850/2021  
SANDEEP JAIN

Through: Mr. Shalabh Singhal, Ad  
versus

ANIL KUMAR GUPTA

Through: Mr. Sahil Sethi with Ms  
Sharma, Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL  
ORDER

% 26.10.2021  
[VIA VIDEO CONFERENCING]

CM No.37157/2021(for exemption) in CM(M) 727/2021, CM No.37160/2021(for exemption) in CM(M) 728/2021, CM No.37163/2021(for exemption) in CM(M) 729/2021, CM No.37166/2021(for exemption) in CM(M) 730/2021, CM No.37169/2021(for exemption) in CM(M) 731/2021, CM No.37172/2021(for exemption) in CM(M) 732/2021, CM No.37175/2021(for exemption) in CM(M) 733/2021, CM No.37178/2021(for exemption) in CM(M) 734/2021, CM No.37181/2021(for exemption) in CM(M) 735/2021, CM No.37184/2021(for exemption) in CM(M) 736/2021, CM No.37187/2021(for exemption) in CM(M) 737/2021, CM No.37190/2021(for exemption) in CM(M) 738/2021, CM No.37193/2021(for exemption) in CM(M) 739/2021, CM No.37196/2021(for exemption) in CM(M) 740/2021, CM No.37199/2021(for exemption) in CM(M) 741/2021, CM No.37202/2021(for exemption) in CM(M) 742/2021, CM No.37205/2021(for exemption) in CM(M) 743/2021, CM No.37208/2021(for exemption) in CM(M) 744/2021, CM No.37211/2021(for exemption) in CM(M) 745/2021, CM No.37214/2021(for exemption) in CM(M) 746/2021, CM No.37217/2021(for exemption) in CM(M) 747/2021, CM No.37220/2021(for exemption) in CM(M) 748/2021, CM No.37223/2021(for exemption) in CM(M) 749/2021, CM No.37226/2021(for exemption) in CM(M) 750/2021, CM No.37229/2021(for exemption) in CM(M) 751/2021, CM No.37232/2021(for exemption) in CM(M) 752/2021, CM No.37235/2021(for exemption) in CM(M) 753/2021, CM No.37238/2021(for exemption) in CM(M) 754/2021, CM No.37241/2021(for exemption) in CM(M) 755/2021, CM No.37244/2021(for exemption) in CM(M) 756/2021, CM

No.37247/2021(for exemption) in CM(M) 757/2021, CM No.37250/2021(for exemption) in CM(M) 758/2021, CM No.37253/2021(for exemption) in CM(M) 759/2021, CM No.37256/2021(for exemption) in CM(M) 760/2021, CM No.37259/2021(for exemption) in CM(M) 761/2021, CM No.37262/2021(for exemption) in CM(M) 762/2021, CM No.37265/2021(for exemption) in CM(M) 763/2021, CM No.37268/2021(for exemption) in CM(M) 764/2021, CM No.37283/2021(for exemption) in CM(M) 769/2021, CM No.37338/2021(for exemption) in CM(M) 785/2021, CM No.37341/2021(for exemption) in CM(M) 786/2021, CM No.37435/2021(for exemption) in CM(M) 795/2021, CM No.37530/2021(for exemption) in CM(M) 812/2021, CM No.37559/2021(for exemption) in CM(M) 822/2021, CM No.37752/2021(for exemption) in CM(M) 847/2021 and CM No.37777/2021(for exemption) in CM(M) 850/2021

1. Allowed, subject to all just exceptions.

2. The applications are disposed of.

CM(M) 727/2021, CM No.37156/2021(for stay) & CM No.37158/2021 (for permission to file relevant record only), CM(M) 728/2021, CM No.37159/2021(for stay) & CM No.37161/2021 (for permission to file relevant record only), CM(M) 729/2021, CM No.37162/2021(for stay) & CM No.37164/2021 (for permission to file relevant record only), CM(M) 730/2021, CM No.37165/2021(for stay) & CM No.37167/2021 (for permission to file relevant record only), CM(M) 731/2021, CM No.37168/2021(for stay) & CM No.37170/2021 (for permission to file relevant record only), CM(M) 732/2021, CM No.37171/2021(for stay) & CM No.37173/2021 (for permission to file relevant record only), CM(M) 733/2021, CM No.37174/2021(for stay) & CM No.37176/2021 (for permission to file relevant record only), CM(M) 734/2021, CM No.37177/2021(for stay) & CM No.37179/2021 (for permission to file relevant record only), CM(M) 735/2021, CM No.37180/2021(for stay) & CM No.37182/2021 (for permission to file relevant record only), CM(M) 736/2021, CM No.37183/2021(for stay) & CM No.37185/2021 (for permission to file relevant record only), CM(M) 737/2021, CM No.37186/2021(for stay) & CM No.37188/2021 (for permission to file relevant record only), CM(M) 738/2021, CM No.37189/2021(for stay) & CM No.37191/2021 (for permission to file relevant record only), CM(M) 739/2021, CM No.37192/2021(for stay) & CM No.37194/2021 (for permission to file relevant record only), CM(M) 740/2021, CM No.37195/2021(for stay) & CM No.37197/2021 (for permission to file relevant record only), CM(M) 741/2021, CM No.37198/2021(for stay) & CM No.37200/2021 (for permission to file relevant record only), CM(M) 742/2021, CM No.37201/2021(for stay) & CM No.37203/2021 (for permission to file relevant record only), CM(M) 743/2021, CM No.37204/2021(for stay) & CM No.37206/2021 (for permission to file relevant record only), CM(M) 744/2021, CM No.37207/2021(for stay) & CM No.37209/2021 (for permission to file relevant record only), CM(M) 745/2021, CM No.37210/2021(for stay) & CM No.37212/2021 (for permission to file relevant record only), CM(M) 746/2021, CM No.37213/2021(for stay) & CM No.37215/2021 (for permission to file relevant record only), CM(M) 747/2021, CM No.37216/2021(for stay) & CM No.37218/2021 (for permission to file relevant record only), CM(M) 748/2021, CM No.37219/2021(for stay) & CM No.37221/2021 (for permission to file relevant record only), CM(M) 749/2021, CM No.37222/2021(for stay) & CM No.37224/2021 (for permission to file relevant record only), CM(M) 750/2021, CM No.37225/2021(for stay) & CM No.37227/2021 (for permission to file relevant record only), CM(M)

751/2021, CM No.37228/2021(for stay) & CM No.37230/2021 (for permission to file relevant record only), CM(M) 752/2021, CM No.37231/2021(for stay) & CM No.37233/2021 (for permission to file relevant record only), CM(M) 753/2021, CM No.37234/2021(for stay) & CM No.37236/2021 (for permission to file relevant record only), CM(M) 754/2021, CM No.37237/2021(for stay) & CM No.37239/2021 (for permission to file relevant record only), CM(M) 755/2021, CM No.37240/2021(for stay) & CM No.37242/2021 (for permission to file relevant record only), CM(M) 756/2021, CM No.37243/2021(for stay) & CM No.37245/2021 (for permission to file relevant record only), CM(M) 757/2021, CM No.37246/2021(for stay) & CM No.37248/2021 (for permission to file relevant record only), CM(M) 758/2021, CM No. 37249/2021(for stay) & CM No.37251/2021 (for permission to file relevant record only), CM(M) 759/2021, CM No. 37252/2021(for stay) & CM No.37254/2021 (for permission to file relevant record only), CM(M) 760/2021, CM No. 37255/2021(for stay) & CM No.37257/2021 (for permission to file relevant record only), CM(M) 761/2021, CM No. 37258/2021(for stay) & CM No.37260/2021 (for permission to file relevant record only), CM(M) 762/2021, CM No. 37261/2021(for stay) & CM No.37263/2021 (for permission to file relevant record only), CM(M) 763/2021, CM No. 37264/2021(for stay) & CM No.37266/2021 (for permission to file relevant record only), CM(M) 764/2021, CM No. 37267/2021(for stay) & CM No.37269/2021 (for permission to file relevant record only), CM(M) 769/2021, CM No.37282/2021(for stay) & CM No.37284/2021 (for permission to file relevant record only), CM(M) 785/2021, CM No. 37337/2021(for stay) & CM No.37339/2021 (for permission to file relevant record only), CM(M) 786/2021, CM No. 37340/2021(for stay) & CM No.37342/2021 (for permission to file relevant record only), CM(M) 795/2021, CM No.37434/2021(for stay) & CM No.37436/2021 (for permission to file relevant record only), CM(M) 812/2021, CM No.37529/2021(for stay) & CM No.37531/2021 (for permission to file relevant record only), CM(M) 822/2021, CM No.37558/2021(for stay) & CM No.37560/2021 (for permission to file relevant record only), CM(M) 847/2021, CM No.37751/2021(for stay) & CM No.37753/2021 (for permission to file relevant record only) and CM(M) 850/2021, CM No.37776/2021(for stay) & CM No.37778/2021 (for permission to file relevant record only)

3. At oral request of counsel appearing on behalf of the petitioner in CM(M) 795/2021, the name of the petitioner in the case title of the aforesaid petition may be read as 'Sandeep Jain' instead of 'Nitin Aggarwal'.

4. The present petition under Article 227 of the Constitution of India impugns the common order dated 16th September, 2021 passed by the National Consumer Disputes Redressal Commission (NCDRC) in a batch of execution applications, to the extent that it directs recovery proceedings by the issuance of individual recovery certificate against the petitioner, who is one of the directors of the company 'Shree Vardhman Infrahome Private Limited', and which company is the judgment debtor before the NCDRC.

5. The respondents, being members of the Flora Welfare Association, filed a complaint under Section 21 of the Consumer Protection Act, 1986, bearing Consumer Case No. 1893/2017 titled Flora Welfare Association Vs. Shree Vardhman Infrahome Pvt. Ltd., before the NCDRC. The said complaint was disposed of by the NCDRC vide decree dated 15 th January, 2019, wherein it was recorded that the matter had been settled between the parties in terms of the written settlement

dated 15 th January, 2019, and which written settlement was ordered to form part of the said decree. Since the decree was not satisfied, the respondents filed execution applications under Sections 71 and 72 of the Consumer Protection Act, 2019 seeking enforcement of the decree dated 15th January, 2019 of the NCDRC as well as penalties to be imposed upon Shree Vardhman Infrahome Private Limited and its directors for non-compliance with the decree dated 15th January, 2019 of the NCDRC, and from which execution proceedings, the impugned order arises.

6. The portions of the order, which are impugned in the present petition, are set out below:

"7. The Registry is requested to issue individual recovery certificates within one week thence, positively, under Section 25(3) of The Consumer Protection Act, 1986 / Section 71 of The Consumer Protection Act, 2019 to the concerned District Collector(s) requiring to recover the respective decretal amounts from the judgment debtor company and its directors (i) Mr.Sandeep Jain, (ii) Mr.Nitin Aggarwal, (iii) Mr. Manish Aggarwal and (iv) Mr. Sachin Jain in the same manner as arrears of land revenue.

8. It is made explicit here that the amount recovered shall be retained with the Registry of this Commission and a decision on releasing it shall be taken after addressing and answering the objections recorded in para 2 above and after hearing objections if any on the quantification of the respective decretal amounts and on any other objection(s) raised by the judgment debtor company and its directors. Meanwhile, the Registry shall retain the recovered amount in the shape of FDR(s), initially for a period of six months, to be renewed regularly."

7. Mr. Shalabh Singhal appearing on behalf of the petitioner, assails the impugned order on the grounds that, (i) the decree dated 15th January, 2019 of the NCDRC has been passed against the company 'Shree Vardhman Infrahome Private Limited' of which the petitioner is only a director; (ii) neither was the petitioner a party to the consumer complaint nor has the decree dated 15th January, 2019 of the NCDRC been passed against the petitioner; (iii) the petitioner was not even arrayed as a party in the execution application; and (iv) there is no provision either under the Consumer Protection Act, 2019 or under the Consumer Protection Act, 1986 to make a director liable for the decree passed against the company. Therefore, it is submitted that the recovery certificate issued against the petitioner is not permissible in law and the same should be set aside. It is further submitted that the petitioner has already deposited his passport with the Registrar, NCDRC, in compliance with the impugned order.

8. The counsels for the petitioner have drawn the attention of this Court to the order dated 4th October, 2021 passed by this Bench in CM(M) 676/2021 titled Sandeep Jain Vs. Akash Gupta & Ors., whereby relying upon the judgments of Ambience Infrastructure Private Limited and Ors. Vs. Ambience Island Apartment Owners and Ors. (2021) 2 SCC 163 and V.K. Uppal Vs. Akshay International Pvt. Ltd. 2010 SCC OnLine Del 538 this Bench has set aside the direction of the NCDRC to issue individual recovery certificate against the petitioner in execution proceedings bearing Execution Application No. 176/2020 initiated under Section 71 of the Consumer Protection Act, 2019.

9. The counsel appearing on behalf of the respondents on advance notice, fairly states that Section 71 of the Consumer Protection Act, 2019 does not empower the NCDRC to issue an individual recovery certificate against the director of a company. However, he submits that proceedings under Section 72 of the Consumer Protection Act, 2019 can be initiated against the petitioner in his capacity as a director of the judgment debtor company.

10. Section 71 of the Consumer Protection Act, 2019 provides that every order made by the NCDRC shall be enforced by it in the same manner as if it were a decree made by a Court in a suit before it and the provisions of Order XXI of the First Schedule to the Code of Civil Procedure, 1908 (CPC) shall, as far as may be, applicable, subject to the modification that every reference therein to the decree shall be construed as reference to the order made under the said Act.

11. This Court is unable to find any provision under the Consumer Protection Act, 2019 to make a director liable for the decree passed against the company and such a provision does not exist in the Consumer Protection Act, 1986 either. Since, neither was the petitioner a party to the consumer complaint, nor had the decree dated 15th January, 2019 of the NCDRC been passed against the petitioner, and furthermore, the petitioner was not even arrayed as a party in the execution applications, the Executing Court could not go behind the decree in such a manner to execute the decree against the petitioner. Therefore, the impugned order to the extent that the individual recovery certificate has been directed to be issued against the petitioner, is without jurisdiction.

12. Accordingly, in terms of the order dated 4th October, 2021 passed by this Court in CM(M) 676/2021 titled Sandeep Jain Vs. Akash Gupta & Ors., the direction of the NCDRC to issue individual recovery certificate against the petitioner is set aside. The recovery certificate, if having been already issued in terms of the impugned order, stands cancelled.

13. It may be noted that in the impugned order, the NCDRC has not adjudicated on whether the provisions of the Consumer Protection Act, 2019 or the Consumer Protection Act, 1986 are applicable to the execution proceedings before it, and has kept the question open. However, taking into account the fact that the NCDRC has passed the impugned order under Section 71 of the Consumer Protection Act, 2019 and directed recovery proceedings by the issuance of individual recovery certificate against the petitioner thereunder, this Court has proceeded to principally analyse the merits of the present petition in light of the provisions of the said Act. Such an exercise does not make any difference to the case at hand as neither of the aforesaid Acts contain provisions, whereby a director can be held liable for the decree passed against the company.

14. It is clarified that this Court has not given any finding on the question of whether in respect of the execution proceedings, the provisions of the Consumer Protection Act, 1986 or the Consumer Protection Act, 2019 would be applicable. It is further clarified that this Court has not gone into the aspect of proceedings that are sought to be initiated against the petitioner under Section 72 of the Consumer Protection Act, 2019.

AMIT BANSAL, J OCTOBER 26, 2021 ak