

\$~8

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CM(M) 615/2021

M/S SYLVANUS PROPERTIES LTD. .... Petitioner  
Through Mr. Pravin Bahadur, Mr. Amit  
Agarwal, Ms. Kanika Gomber, and  
Mr. Saurabh Kumar, Advocates  
versus

PARESH PRATAP RAI MEHTA .... Respondent  
Through None.

**CORAM:**  
**HON'BLE MR. JUSTICE AMIT BANSAL**

**ORDER**

% **13.09.2021**  
**CM No.31066/2021 (Exemption)**

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

**CM(M) 615/2021 and CM No.31065/2021 (Stay)**

3. The present petition under Article 227 of the Constitution of India impugns order dated 30<sup>th</sup> July, 2021 passed by the National Consumer Disputes Redressal Commission (NCDRC), whereby the Chief Executive Officer of the petitioner company, who is the opposite party before the NCDRC, has been directed to file an affidavit within two weeks and has also been asked to be present in person through video conferencing on the next date of hearing.
4. Mr. Pravin Bahadur, counsel appearing on behalf of the petitioner company submits that there was no occasion to pass such an order by the NCDRC inasmuch as the petitioner has already filed his reply to the complaint within the stipulated time period and thereafter, the adjudication

of the complaint has to proceed on merits. He further submits that at present, the petitioner company does not have a Chief Executive Officer and an affidavit, signed by one of the directors of the petitioner company, in terms of directions passed by the NCDRC has already been filed by the petitioner company. Therefore, he prays that the said affidavit may be taken on record and the requirement of the Chief Executive Officer to appear in person may be dispensed with.

5. None appears on behalf of respondent/complainant even though it is stated that the advance copy of the petition has been served on the respondent/complainant.

6. Having considered the matter, this Court is of the view that there was no occasion for the NCDRC to direct filing of an affidavit by the Chief Executive Officer of the petitioner company or to direct the Chief Executive Officer of the petitioner company to be present personally through video conferencing, taking into account that the reply of the complaint has been filed within the stipulated time period. The Consumer Protection Act, 1986 (the Act) and the rules framed thereunder contain a well defined procedure for deciding a complaint. While this Court appreciates the intent shown by the NCDRC to effectuate a settlement between the parties, the procedure for adjudication of the complaint as per the provisions of the Act has to be adhered to. No reasons have been provided for directing filing of an affidavit by the Chief Executive Officer or for directing the Chief Executive Officer to be present in person on the next date of hearing. Accordingly, the impugned order passed by the NCDRC is set aside. The NCDRC shall proceed to adjudicate the complaint on merits, as per the procedure laid down under the Act and the rules framed thereunder. The additional affidavit filed by one of the directors of the petitioner company would be

taken on record and the NCDRC would not insist on the personal appearance of the Chief Executive Officer of the petitioner company.

7. This Court is in agreement with the submission of the counsel for the petitioner company that in view of the fact that the petitioner company does not have a Chief Executive Officer at present, the settlement talks as directed by NCDRC would be conducted on behalf of the petitioner company by senior executive of the company.

8. The petition and the pending application are disposed of.

9. Since the present order has been passed in the absence of the respondent, the respondent may approach this Court in case of any grievance with the said order.

**AMIT BANSAL, J.**

**SEPTEMBER 13, 2021**

dk