

# **M/S. T.R.SAWHNEY MOTORS P. LTD. V. ARUN KUMAR**

1. M/S. T.R.SAWHNEY MOTORS P. LTD.

.....Petitioner(s)

Versus

1. ARUN KUMAR

.....Respondent(s)

**Case No: REVISION PETITION NO. 1154 OF 2022**

(Against the Order dated 12/07/2022 in Appeal No. 120/2019 of the State Commission Delhi)

**Date of Judgement: 04 October 2023**

**Judges:**

HON'BLE MR. JUSTICE KARUNA NAND BAJPAYEE, PRESIDING MEMBER

**FOR THE PETITIONER : NEMO**

**FOR THE RESPONDENT : MR. RICHIK HARIKANT, ADVOCATE WITH RESPONDENT IN PERSON**

**Facts:**

***This is a revision petition filed by M/s T.R. Sawhney Motors P. Ltd. against the order dated 12.07.2022 passed in Appeal No. 120/2019 by the State Commission Delhi. The State Commission had dismissed the appeal in non-prosecution as no one had appeared for the petitioner on the date fixed. The revision petition has been filed under Section 21(b) of the Consumer Protection Act, 1986.***

**Court's Elaborate Opinions:**

***The matter does not involve complicated questions of fact or***

*law. The State Commission was constrained to pass the dismissal order due to the petitioner's default in appearance. In the peculiar facts and circumstances of the case, a further opportunity should be provided to the petitioner to contest the matter on merits. The order of the State Commission dated 12.07.2022 is set aside and the appeal is restored before it. Petitioner is advised to pursue the matter diligently. State Commission is requested to adjudicate the appeal on merits after providing opportunity to both parties as per law.*

**Arguments by Parties:**

*None appeared for the petitioner on the date of hearing. Counsel for the respondent did not object to remanding the matter back to State Commission for hearing on merits.*

**Referred Sections and Laws:**

*Section 21(b) of the Consumer Protection Act, 1986 under which revision petition is filed.*

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**Court**

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**Full Text of Judgment:**

1. The matter is taken up on being mentioned on the request of respondent. However, none is present for the petitioner as of now.

2. This revision petition has been filed under Section 21 (b) of the Act 1986 in challenge to the Order dated 12.07.2022 in Appeal No. 120 of 2019 of the State Commission Delhi arising out of Order dated 14.11.2018 of the District Commission in Complaint no. 430 of 2012.

2. Heard the learned counsel for the respondent and perused the record including inter alia the Order dated 14.11.2018 of the District Commission, Order dated 12.07.2022 of the State Commission and the memo. of revision.

3. It appears that the present petition has been filed against

the impugned Order passed by the State Commission which dismissed the appeal in non-prosecution as none had appeared on behalf of the petitioner on the date fixed. For better appreciation the impugned Order dated 12.07.2022 is being narrated hereinbelow:

12.07.2022

Present: None for the appellant.

Ms. Simran, proxy counsel for Mr. Chandra Sekhar Yadav, counsel for the

respondent.

Respondent in person.

FA-120/19

Written submissions on behalf of the respondent have already been filed.

However, appellant has not been filed the written submissions. No one is appearing on behalf of the appellant since long. Neither the appellant nor its counsel have appeared today. It appears that the appellant is not interested in pursuing the matter.

Hence, the same is dismissed for non-prosecution.

File be consigned to record room.

5. The matter does not involve any complicated questions of fact or law. The State Commission was constrained to pass the impugned Order for reasons for petitioner's default. However, in the peculiar facts and circumstances of the case it is deemed appropriate that a further opportunity be provided to the petitioner to contest the matter on merits and it be given an opportunity of hearing. It may be observed that this Bench is not making any observations regarding the merits of the case lest the same may go to colour the vision of the State Commission or to create any prejudice in favour or against any party

6. Learned counsel for the respondent is also gracious enough not to raise any serious objection if the case is remitted

back for being heard on merits.

7. As such, in the interest of justice, without making any observations on merits of the case the Order dated 12.07.2022 of the State Commission is set aside and the appeal is restored to its original number before the State Commission. The petitioner is sternly advised to conduct his case in the right earnest with diligence.

8. The parties shall appear before the State Commission on 14.11.2023. The State Commission is requested to adjudicate the complaint on merit after providing adequate opportunity to both the parties to pursue the matter as per law. It may also be observed that in case on future dates the petitioner fails to appear the State Commission will proceed further in its discretion and wisdom as it may deem fit in accordance with law.

9. However, if for whatever reason, the petitioner does not appear before the State Commission on the date of hearing, the State Commission shall issue notice for requiring its presence in order to proceed in accordance with law in the matter, as directed by this Commission.

10. The Registry is requested to send a copy each of this Order to all parties in this petition and to their learned counsel as well to the State Commission within three days. The stenographer is requested to upload this Order on the website of this Commission immediately.