

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**CONSUMER CASE NO. 94 OF 2024**

**WITH**

**IA/11604/2024(Exemption of file typed copies of documents)**

1. SUMAN KUMAR MISHRA & ORS..
2. MINAKSHI SUMAN MISHRA
3. MOHANA RAMCHANDRAMURTY JANAM
4. MEENAL GUPTA
5. ABRAHAM VARGHESE
6. RANA ANANT THAKUR
7. DEEPA ONKAR THAKUR
8. RAJESH PUTHRAN SADANAND
9. RASHMI RAJESH SADANAND
10. PRATIBHA KUNDER
11. RAMA CHANDRA
12. ANKIT DAS
13. MADHUMITA DAS
14. PRAVIN AMIN
15. RAJASHREE AMIN
16. TIRATH YOGESH CHITALIA
17. JASMINE JAYANT THAKKAR
18. PARAMITA DOUBEK
19. ADRIAN ROBERTSON
20. JENNIFER ROBERTSON

.....Complainant(s)

Versus

1. LUCINA LAND DEVELOPMENT LTD & ANR.
2. DIANA INFRASTRUCTURE LIMITED

.....Opp.Party(s)

**CONSUMER CASE NO. 95 OF 2024**

**WITH**

**IA/11617/2024(Exemption of file typed copies of documents)**

1. PRATIK PAI & ORS.
2. NISHA DOGRA
3. ANIL KUMAR SINHA
4. VINITA SINHA
5. ROBINSON VARGHESE
6. NAVIN KUMAR
7. RASHMI NAVIN KUMAR
8. SAGAR SURESH SINGH
9. ASHISH MALIK
10. AARTI MALIK
11. BHALCHANDRA KAPALE
12. SNEHA J GURBANI

.....Complainant(s)

Versus

1. LUCINA LAND DEVELOPMENT LIMITED & ANR.

.....Opp.Party(s)

**BEFORE:** &nbsp;

**HON'BLE DR. INDER JIT SINGH, PRESIDING MEMBER**

FOR THE COMPLAINANT : MR. ANSHUL GUPTA AND MR. RISHABH  
DARIRA, ADVOCATES

FOR THE OPP. PARTY : MR. PRANAV SARTHI AND MR. GAURAV  
VATS, ADVOCATES

**Dated : 29 November 2024**

**ORDER**

1. Both the OPs in CC No. 94 and 95 of 2024 are represented by Mr. Gaurav Vats and Mr. Pranav Sarthi, Advocates.

2. In CC No. 94 of 2024, initially learned counsel for the OPs, on instructions, stated that they have got the notice on 29.09.2024 and filed the written version on 12.11.2024, hence the delay is only of 14 days which is condonable by this Commission for which an IA No. 16574 of 2024 has been filed. A perusal of the record of the Commission / Report of the Registry shows that notice to both the OPs were served on 23.09.2024, hence filing of the written version on 12.11.2024 was not within the maximum 45 days permissible period and this Commission has no discretion to condone any delay beyond 45 days. After initial arguments, learned counsel fairly conceded that in view of the report of the Registry, notice having been served on the OPs on 23.09.2024, he concedes that written version filed by them is beyond 45 days and same cannot be taken on record and they do not wish to further contest this issue. Hence, written version filed by the OPs is not taken on record.

3. Learned counsel for the OPs in CC No. 95 of 2024 also after initial arguments on similar lines, conceded that their written version is beyond 45 days and hence in this case also, written version is not taken on record.

4. Hence, IA Nos. 16574 and 16595 of 2024 seeking condonation of delay in filing written version are dismissed.

5. In view of the foregoing, complainant is granted 4 weeks time in both cases to file their evidence with copy to the other side Both sides are granted 8 weeks time to file their written synopsis. It is made clear that written synopsis to be filed by the OPs is to be based on available records and they cannot bring any new fact or document on record through the written synopsis as their right to file the written version already stands closed. They have a right to participate in the proceedings by way of filing written synopsis and can argue the case orally.

6. IA No. 17118 of 2024 has been filed by the complainant in CC No. 94 of 2024 seeking prosecution of accused persons. 10 persons have been listed in this IA. Persons listed at Sl. No. 1 to 3 are directors of OP No1 Company, 4<sup>th</sup> is the authorized representative of OP No.1-Company, 5<sup>th</sup> to 7<sup>th</sup> are directors of OP No.2 Company, 8<sup>th</sup> is the authorized

representative of OP-2 Company and 9<sup>th</sup> and 10<sup>th</sup> are the counsels representing OP Nos. 1 and 2 in the consumer complaint(s) who have filed the vakalatnama.

7. It is to be noted that none of these 10 persons are the OPs in the main complaint. Similar IA has been filed vide IA No. 17079 of 2024 in CC No. 95 of 2024 seeking similar prayer against the same 10 persons for their prosecution on similar reasons.

8. The application(s) of the complainant seeking prosecution of accused persons is on the ground of submitting false evidence before this Commission in IA No. 16574 of 2024 in CC No. 94 of 2024 and in IA No.16595 of 2024 in CC No. 95 of 2024. In IA No. 16574 of 2024, OPs under para no. 3 have claimed that they received notice on 29.09.2024. Para 3 of this IA is reproduced below :

*“3. Pursuant thereto, a copy of the Consumer Complaint along with the annexures was received by the Opposite Party on 29.09.2024. Accordingly, the 30 days as prescribed commenced from 30.09.2024. The 30 days for filing the written statement expired on 30.10.2024.”*

9. As stated in the preceding paras, report of the Registry shows that notice was received by the OPs on 23.09.2024 as per the tracking report of the postal department. It is contended by the learned counsel for the complainant that knowingly mentioning date of receipt of notice as 29.09.2024 while in reality they got the notice on 23.09.2024 amounts to filing of false affidavit as this IA is accompanied with an affidavit of Mr. Manmohan Singh and Mr. Ashish Kumar as authorised representatives of OP(s), who have been authorised by the Board Resolution of Directors. Contending further that as the said IA was filed through two counsels having vakalatnama in the matter(s), they are also equally responsible in filing of the false affidavit.

10. Learned counsels appearing for the OPs state that they are big organization where lot of papers / documents are received through postal department / otherwise and at time, such documents / papers are received at lower level which are then submitted to the senior level officers. They further stated that there was no wilful intention of wrongfully mentioning the date of receipt as 29.09.2024 and this possibly was the date when the senior officers might have been apprised of the notice. They fairly concede that notice in question was received through postal department on 23.09.2024 and they do not wish to contest this date any more and state that there was no intention of filing any false information which has happened only on account of lower level officials not understanding the sanctity of such dates and they unconditionally apologize for any such mistake which has happened on the part of the authorised representatives of the OPs, which was not intentional and prays that this matter may be closed at this stage and consumer complaint(s) may proceed with on merits.

They further state that directors of OP Nos. 1 and 2 are in no way responsible for mentioning wrong date in the IAs and vide resolutions they have not authorised anyone to file wrong affidavit. Hence, arraying them as accused in the IAs is not appropriate. As regards the allegations against the two counsels representing the OPs are concerned, they take strong objection to their names being included in the said IAs stating that as per the prevalent practice in the profession, whatever counsel(s) state in the application(s), is based on the instructions they get from their client(s) and in this case their client(s) told them that they received the notice on 29.09.2024 and they drafted the condonation of delay

application(s) accordingly with legal inputs from their side and they cannot be arrayed as accused in the IAs for any such allegation by the other side for stating what they did on the instructions from their client.

11. As regards inclusion of two counsels name as the accused persons and seeking their prosecution, we are in agreement with the contention of the learned counsel for the OPs. Assuming that OPs mentioned a wrong date of receipt of notice as 29.09.2024 instead of 23.09.2024, it does not warrant listing the learned counsels as accused in the present IA(s). However, we do observe that as the timeline of initial 30 days for filing written version with provision of another 15 days for extension with the permission of the Commission is sacrosanct and not even a single day can be allowed beyond maximum period of 45 days keeping in view the judgment of the Hon'ble Supreme Court in New India Assurance Co. Ltd. Vs. Hilli Multipurpose Cold Storage Pvt. Ltd. (2020) 5 SCC 757, the possibility of officials of OPs wrongly stating the date of receipt of notice with a view to bring the date of filing their written version within 45 days cannot be ruled out. However, to put an end to the controversy, we accept the unconditional apology of the authorized representatives of the OPs in having mentioned the wrong date of receipt of notice and give them suitable warning to ensure that such instances should not recur in future and they should be very careful in submitting correct facts before the Commission. As regards arraying Directors in the IAs as accused, we tend to agree with the submissions of counsels for OPs as stated in the preceding paras. With these observations, we wish to close the IA Nos. 17118 of 2024 in CC No. 94 of 2024 and IA No. 17079 of 2024 and proceed with both the consumer complaints on merits as per the order given in the preceding paras.

12. List the matters on 27.02.2025.

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**DR. INDER JIT SINGH**  
**PRESIDING MEMBER**