

ITEM NO.9 Court 5 (Video Conferencing) SECTION XVII-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s).4476-4477/2021

M/S ACME CLEANTECH SOLUTIONS PRIVATE LIMITED Appellant(s)

VERSUS

M/S UNITED INDIA INSURANCE COMPANY LIMITED & ANR. Respondent(s)

(FOR ADMISSION and IA No.89104/2021-STAY APPLICATION)

Date : 02-08-2021 These appeals were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE M.R. SHAH

For Appellant(s) Mr. Joy Basu, Sr. Adv.
Mr. Abhirup Dasgupta, Adv.
Mr. Ishaan Duggal, Adv.
Ms. Bhawana Sharma. Adv.
Ms. Kanak Bose, Adv.
Mr. Mohit D. Ram, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

1 Mr Joy Basu, learned Senior Counsel appearing on behalf of the appellant, submits that:

- (i) Immediately after the occurrence of the insured peril on 30 May 2016, an intimation was furnished to the respondent;
- (ii) Since there was a delay of over three years on the part of the insurer in dealing with the claim, on 27 September 2019, a complaint was filed in the National Consumer Disputes Redressal Commission¹. ;

1 "NCDRC"

- (iii) The complaint was admitted on 17 October 2019;
- (iv) Though notice was served on 5 November 2019, no written statement was filed by the respondent within 45 days which has been held to be mandatory by the judgment of the Constitution Bench in **New India Assurance Co Ltd v Hilli Multipurpose Cold Storage Pvt Ltd**²; and
- (v) Belatedly on 6 March 2020 an IA was filed by the first respondent for the rejection of the complaint as premature, without referring to the letter of repudiation which was issued on the same day.

2 On the above premises, it has been submitted that:

- (a) The order of the NCDRC directing the appellant to amend the complaint to challenge the repudiation is incorrect since the belated repudiation of the complaint was a ruse to get over the failure of the first respondent to file its written statement within the mandatory time limit prescribed under the provisions of the Consumer Protection Act 1986; and
- (b) The NCDRC has erred in allowing an opportunity to the respondents to file a written statement to the amended complaint which, it is submitted, would be barred by the judgment of the Constitution Bench noted above.

3 Issue notice, returnable in twelve weeks.

4 Dasti, in addition, is permitted.

5 Counter affidavit shall be filed within a period of six weeks from the date of service.

- 6 The proceedings shall be listed for final disposal at the stage of admission in the month of November 2021.

- 7 The proceedings before the NCDRC in Consumer Complaint No 1934 of 2019 shall remain stayed, pending further orders of this Court.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER