

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11704 OF 2013**

Brahma Skyline Developers & Anr.

..Petitioners

Vs.

Brahma Emeraid County Sahakari

Griha Rachana Sanstha & ors

..Respondents

Mr. S. R. Ronghe for the Petitioners

Mr. S. M. Sabrad for the Respondent Nos.1 to 3

Mr. R.S. Khadapkar for the Respondent No.5

CORAM : R. M. SAVANT, J.

DATE : 16th June, 2015

P.C.

1 In the above Petition “Rule” was issued on 21-4-2014. The above Petition challenges the order passed by the National Consumer Commission dated 19-7-2013 which confirms the interim order passed by the State Consumer Commission dated 30-1-2013. The maintainability of the above Petition is questioned by relying upon two judgments of the Apex Court in the matter of **Nivedita Sharma Vs. Cellular Operators Association of India & Ors.**¹ and in the matter of **Cicily Kallarackal Vs. Vehicle Factory**² By the said judgments, the Apex Court has issued directions that the High Courts would not entertain the Writ Petition challenging the orders of National Consumer Commission in view of the alternate efficacious remedy available by way of an Appeal. In the light of the aforesaid two pronouncements of the Apex Court, the maintainability of the Petition is in question as the Petitioner ought to have

1 (2011) 14 Supreme Court Cases 337

2 (2012) 8 Supreme Court Case 524

challenged the order passed by the National Consumer Commission by filing an Appeal in the Apex Court. However, the Learned Counsel for the Petitioner has received written instructions by way of a letter from the authorised person of the Petitioner one Israr Khan, the scanned copy of the said letter is produced by the Learned Counsel for the Petitioner. In the said letter, it has been stated that the original complaint has been decided by the District Consumer Redressal Forum by order dated 31-1-2015 and that the said order has further been clarified on 5-6-2015. In view thereof, the Learned Counsel for the Petitioner Mr. Ronghe has been instructed to withdraw the above Petition. In the light of the said written instructions, it is not necessary to dismiss the Petition on the ground of its maintainability. At the request of the Learned Counsel for the Petitioners the Petition is allowed to be withdrawn, as having turned infructuous. The scanned copy of the said letter is taken on record and marked as "X" for identification. Rule discharged.

[R.M.SAVANT, J]