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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5060 OF 2016

Deepa Veer Ganjoo & Ors.

...Petitioners

Vs.

The Registrar, Maharashtra State

Consumer Disputes Redressal Commission & Ors. ...Respondents

Mr. Arif Y. Bookwala, Senior Counsel

a/w. Mr. G. Mehta a/w. Mr. F. Frederick,

Advocate for the Petitioners

Mr. Rakesh Singh i/b. M.V. Kini & Co., Advocate

for Respondent Nos. 2 and 3

CORAM : SHANTANU S. KEMKAR &

M.S. KARNIK, JJ.

DATED : 6TH OCTOBER, 2016

P.C. :

Matter is not on board. In view of the urgency taken on board and heard.

2. Parties through their Counsel. Aggrieved by the order dated 8th January 2016 passed by the State Consumer Disputes Redressal Commission, Maharashtra, Mumbai in Consumer Complaint No. CC/12/209 whereby the Petitioners' / Complainants' right to file the affidavit of evidence has been closed, the petitioners / complainants

have filed this Petition under Article 226 of the Constitution of India.

3. Learned Senior Counsel appearing for the Petitioners submits that though earlier two opportunities were already granted, but due to some unavoidable circumstance the Petitioners / complainants could not file affidavit of evidence as a result the impugned order has been passed causing great hardship to the Petitioners.

4. A prayer has been made that the impugned order be set aside and one opportunity to the Petitioners / Complainants to file affidavit of evidence may be granted so that the matter can be decided on merits.

5. On the other hand learned Counsel appearing for the Respondent Nos. 2 and 3 has opposed the prayer. He submits that inspite of granting several opportunities the Petitioners failed to file the affidavit of evidence, in the circumstances the State Commission has rightly closed the opportunity to file affidavit of evidence.

6. Having considered the submissions made by the learned

Counsel for the parties and having gone through the proceedings as also the impugned order we find that there was sufficient cause for non-filing of the affidavit of evidence on the date fixed for the same. Keeping in view the entire facts and circumstances of the case and the fact that the Petitioners are ready to compensate the Respondents by payment of costs in the interest of justice we allow the prayer made in the Petition and grant one opportunity to the Petitioners / Complainants to file affidavit of evidence before the State Commission on or before 18th October, 2016 subject to Petitioners' paying cost to Respondent Nos. 2 and 3 to the extent of Rs.5000/-.

7. Parties to appear on 18th October, 2016 before the State Consumer Disputes Redressal Commission, Maharashtra, Mumbai which is the date already fixed by the Commission.

8. The Petition is disposed of.

(M.S. KARNIK, J.)

(SHANTANU S. KEMKAR, J.)