

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION St. NO. 3039 OF 2017**

Rustomjee Realty Private Limited

..Petitioner

Vs.

Pankaj Nilmani & Ors

..Respondents

Mr. V. V. Tulzapurkar Senior Advocate, a/w Mr. Simil Purohit a/w Mr. Denzil Arambhan a/w Ms Apeksha Munot i/b Wadia Ghandy & Co. for the Petitioner

Mr. Anand Mishra i/b Mr. A. M. Saraogi for the Respondent No.1

Mr. R. S. Ghatge i/b Mr. Appasaheb Desai for the Respondent No.3

**WITH
WRIT PETITION St. NO. 3044 OF 2017**

Rustomjee Realty Private Limited

..Petitioner

Vs.

Pankaj Nilmani & Ors

..Respondents

Mr. Ravi Kadam Senior Advocate, a/w Mr. Simil Purohit a/w Mr. Denzil Arambhan a/w Ms Apeksha Munot i/b Wadia Ghandy & Co. for the Petitioner

Mr. Anand Mishra i/b Mr. A. M. Saraogi for the Respondent No.1

Mr. R. S. Ghatge i/b Mr. Appasaheb Desai for the Respondent No.3

**CORAM : R. M. SAVANT, J.
DATE : 3rd FEBRUARY, 2017**

P.C.

1 The order dated 16-12-2016 passed by the State Consumer Redressal Commission is taken exception to by way of the above Petitions. The Writ Jurisdiction of this Court is invoked on the ground that the State Commission did not have the jurisdiction to entertain the complaints.

2 In my view, having regard to the judgment of the Apex Court reported in the matter of **Nivedita Sharma Vs. Cellular Operators Association of India & Ors.**¹ it is not possible to entertain the above Petitioners, the Apex Court in the said judgment has held that the Consumer Protection Act is a self contained code and contains a mechanism for redressal of the grievances. The Apex Court held that when a statutory forum is created by law for redressal of grievances a Writ Petition should not be entertained ignoring the statutory dispensation. The Apex Court further held that the provisions relating to the jurisdiction of the District Forum, State Commission and National Commission must not be interpreted in a manner which would frustrate the object of the legislation. In the said case, the Apex Court found fault with the Division Bench of the Delhi High Court entertaining the Petitions filed against the orders passed by the State Commission. Since the Petitioner is challenging the orders passed by the State Commission, the remedy of the Petitioner if any is to approach the National Consumer Redressal Commission against the impugned orders.

3 The Learned Senior Counsel Mr. Kadam appearing in Writ Petition St No.3044 of 2017, places reliance on the following judgments of the Apex Court in support of his contention that this Court entertain the above Petitions.

1 (2011) 14 Supreme Court Cases 337

(i) 1998(8) SCC 1 Whirlpool Corporation Vs. Registrar of Trade Marks
Mumbai & Ors.

(ii) 2009(14) SCC 338 Godrej Sara Lee Limited Vs. Assistant Commissioner
(AA) & Anr

(iii) (2009) 2 SCC 630 Committee of Management & Anr. Vs. Vice-Chancellor
& Ors.

The said judgments lay down the proposition that the availability
of an alternate remedy is not a bar to the exercise of writ jurisdiction.

4 In my view, the said judgments would not aid the Petitioners to
contend that this Court ought to exercise its Writ Jurisdiction, having regard to
the judgment of the Apex Court in Nivedita Sharma's case (Supra).

5 Hence by relegating the Petitioners to the remedy by way of an
Appeal before the National Commission, the above Writ Petitions are disposed
of.

[R.M.SAVANT, J]