

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Writ Petition No. 1526 of 2020

Archland Realistic Pvt. Ltd. and others
Vs.
Harshawardhan Anandrao Kalbande

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. P.S. Kadam, Advocate for the petitioners

CORAM : MANISH PITALE, J.

DATED : DECEMBER 15, 2020

Heard learned counsel for the petitioners.

2. By this Writ Petition, the petitioners seek to challenge order dated 11/12/2019, passed by the State Consumer Dispute Redressal Commission, Maharashtra, Nagpur Circuit Bench, Nagpur. By the said order, the State Commission has dismissed an appeal filed by the petitioners herein, for want of taking necessary steps.

3. There is no dispute about the fact that the impugned order was passed on 11/12/2019, by the State Commission. The Writ Petition appears to have been filed on 17/02/2020 and it is listed for

consideration before this Court for the first time today.

4. On a query put to the learned counsel appearing for the petitioners as to why this Court should exercise writ jurisdiction when there is an alternative remedy available to the petitioners under Section 21(b) of the Consumer Protection Act, 1986, it is submitted that in the special circumstances pertaining to this case, writ jurisdiction could be exercised by this Court despite availability of alternative remedy.

5. When this Court requested the learned counsel appearing for the petitioners to enumerate the special circumstances, it was submitted that the respondent had filed an application for withdrawal of the amount deposited by the petitioners before the State Commission and that, therefore, there was grave urgency in the matter. It was further submitted that the circumstances induced by the Covid-19 crisis were also a special circumstance required to be taken into consideration by this Court.

6. But, a perusal of the impugned order shows that it was passed way back on 11/12/2019. The petitioners filed this Writ Petition on 17/02/2020, despite availability of alternative remedy. There is nothing to show that the respondent had filed and pressed the application for withdrawal of the amount

in February, 2020, when this Writ Petition was filed. There was no attempt made on the part of the petitioners to get the instant Writ Petition listed for hearing before this Court till today. It is also an admitted position that when this Writ Petition was filed on 17/02/2020, there was no lock-down imposed due to Covid-19 crisis. Therefore, this Court is of the opinion that there are no special circumstances at all justifying exercise of writ jurisdiction by this Court.

7. In **Wasan Automotive Pvt. Ltd. Mumbai and another Vs. Subhash Rajaram Vande 2019(4) Mh.L.J. 776**, this Court has held that alternative remedy under Section 21(b) of the aforesaid Act is indeed available to the litigants like the petitioners herein. Although, it is indeed laid down in the said judgment that despite availability of the said alternative remedy, in a given case, this Court may exercise its writ jurisdiction, but, in order to do so special circumstances would have to be demonstrated.

8. As noted above, the petitioners herein have failed to demonstrate such circumstances and, therefore, the present Writ Petition is dismissed on the ground of availability of alternative remedy to the petitioners.

JUDGE