

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

902 WRIT PETITION NO.6497 OF 2023

**SAMSUNG MOBILE SERVICES S. K. ENTERPRISES THROUGH
SANJAY KALYANMAL THOLE AND ANOTHER
VERSUS
DILIP MURLIDHAR MALAPURE**

...
Advocate for Petitioners : Mr.Gandhi Amol Subhash

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**CORAM : KISHORE C. SANT, J.
DATE : 22.06.2023.**

PER COURT :

1. Heard the learned Advocate for the petitioners for some time. The challenge is to the order dated 08.11.2022, passed by the District Consumer Commission, Ahmednagar in Consumer Case No. 202 of 2022, rejecting the application of the petitioners, seeking permission to file the Written Statement by condoning delay of 45 days. This Court finds that the petition is not maintainable before this Court under Article 227 of the Constitution of India, as the Courts established under the Consumer Protection Act are not the Courts subordinate to the High Court and therefore, the Writ Petitions under Article 227 of the Constitution of India are not maintainable.

2. The learned Advocate has relied upon the judgment

in the case of **Ibrat Faizan v. Omaxe Buildhome Priate Limited**, reported in AIR 2022 (SC) 2363. The Hon'ble Apex Court in the said case held that the petition would be maintainable to the High Court in respect of the order passed by the National Commission in appeal under Section 58 (1) (a) (iii) of 2019 Act. The further discussion shows that it is only in respect of the order passed by the National Commission in respect of the writ jurisdiction of the High Court.

3. In the next judgment he relied upon is in the case of **New India Assurance Company Limited v. Hilli Multipurpose Cold Storage Private Limited**, reported in AIR 2020 (SC) 1267. The Hon'ble Apex Court has considered the limitation for filing Written Statement. It is held that the provisions of Section 13 of the Consumer Protection Act, 1968 needs to be strictly construed and period to file written statement it cannot be extended except where the case is made out of non serving copy of the complaint upon the respondent.

4. The learned Advocate also relied upon the judgment of Nagpur Bench of this Court reported in **2022 DGLS (Bom.) 4344** in the case of **Nagar Vikas Co-Operative Housing Society Limited vs. Nandrani Satyanarayan Dubey and Others**, wherein,

the judgment passed by the State Consumer Forum was set aside and the complaint filed before the Consumer Forum came to be dismissed.

5. He has further relied upon the judgment reported in **2022 (4) Mh.L.J. (Cri) 491 Bombay High Court, Nagpur Bench, in the case of Suhas Ratnakar Morey v. Dhanraj Tulshiram Khaparde**. It was the case in respect of the proceeding under Section 27 of the Consumer Protection Act. On noticing the manner in which the proceedings Section 27 are being conducted by the District Forum with the order impugned therein, this Court finds that no case is made out by the petitioners to entertain the petition, for want of jurisdiction and maintainability. This Court finds that the petition is not maintainable before the High Court. In view of the same, the petition stands dismissed, with liberty to the petitioners to approach the proper forum to challenge the impugned order.

(KISHORE C. SANT)
JUDGE

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