

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

WRIT PETITION NO. 6000 OF 2019

Mahendra Singh Rana
s/o Late Shri Totaram Rana,
Age about 60 years,
Occupation-Service,
Through its General Power of
Attorney Holder Kishor Nathaji
Chiwande, Age about 60 years,
Occupation-Service,
R/o. ACC Colony, Qr. No.BK/9,
Post-Cement Nagar, Tahsil and
District-Chandrapur.

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Petitioner

.. Versus ..

1. M/s. Infratech Real Estate Pvt. Ltd.
A Company constituted under
Companies Act, 1956, having
Registration No.CIN : U70102
MH 2007 PTC 173276, and having
Corporate Office : 63, Shilpa Co.op
Housing Society, Main Road,
Manish Nagar, Nagpur-15.
Through its Director :
Shri Vijay Anandrao Shelke,
Age 53 years, Occupation-Business,
R/o. Shree Tower, Opposite Primary
School, Mahatma Fule Nagar,
Somalwada, Wardha Road, Nagpur-25.
2. Shri Vijay Anandrao Shelke,
Age 53 years, Occupation-Business,
R/o. 1] Shree Tower, Opposite Primary
School, Mahatma Fule Nagar,

Somalwada, Wardha Road, Nagpur-25
(Maharashtra).
R/o. 2] Plot No.9, Nelco Society,
Ramkrishna Nagar, Khamla,
Nagpur (Maharashtra).

3. Shri Surendra Dongra,
Age Major, Occupation-Service,
General Manager, Infratech Real
Estate Pvt. Ltd. A company registered
under the Companies Act, 1956,
R/o. Near Boudha Vihar, Kamal Chowk,
Nagpur (Maharashtra).
4. State Consumer Disputes Redressal
Commission, Maharashtra, Nagpur
Circuit Bench, Nagpur,
Through its Registrar, Civil Lines,
Nagpur.

.. Respondents

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Shri Rahul D. Hajare, Advocate for the petitioner,
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CORAM : MRS. VRUSHALI V. JOSHI, J.
DATE : 22.02.2023.

ORAL JUDGMENT

The learned counsel for the petitioner has been heard. The respondents have been duly served, but they have not chosen to contest the writ petition. Accordingly, by issuing **Rule**, the learned counsel for the petitioner has been heard.

2. The petitioner has challenged the order passed by the State Consumer Disputes Redressal Commission. The petitioner has filed Complaint under Section 12 of Consumer Protection Act, 1986 bearing No.CC/17/6 before the State Consumer Disputes Redressal Commission. On 27.06.2017 the Member of the State Consumer Disputes Redressal Commission has passed the order and dismissed the complaint in-default as the complainant remained absent for four dates. The complaint was fixed for hearing before admission. The restoration application was filed by the petitioner before the said Commission, but as there is no provision of restoration, the petitioner has withdrew the application, hence filed this petition.

3. Though the respondents were served, but they remained absent. Heard the learned counsel for the petitioner. The petitioner was under impression that after removing the office objection and after receiving the notices by the respondents, he will have to appear before the Commission. Therefore, he has not kept track of the matter and the dismissal order was passed. In the light of fact that the complaint was dismissed in default and not on merits, one opportunity deserves to be granted to the petitioner to pursue the proceeding on merits. The absence of the petitioner was not deliberate. In that view of the matter, I pass the following order :

(i) The Complaint Case No.CC/17/6 is restored, subject to depositing an amount of Rs.5,000/- with the High Court Legal Services Sub-Committee, Nagpur within a period of two weeks from today and producing of the receipt of the same before the State Consumer Disputes Redressal Commission. For that purpose, the petitioner shall remain present before the State Consumer Disputes Redressal Commission on **09.03.2023**.

(ii) If the said receipt is produced, the State Consumer Disputes Redressal Commission shall proceed to adjudicate the complaint on its own merits.

(iii) The order dated 27.06.2017 passed by the State Consumer Disputes Redressal Commission in Complaint Case No.CC/17/6 is quashed and set aside.

(iv) The writ petition is allowed in aforesaid terms.

[MRS. VRUSHALI V. JOSHI, J.]