

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 10426 OF 2024

Mahesh Keshtibhai Mehta Petitioner

Versus

The Bharatiya Friends Cooperative Respondent
Housing Society Ltd.

Mr. Mahesh K. Mehta, Petitioner-in-person, present.
Mr. Kushal Amin, a/w. Smeet Savla, i/b. S. K. Srivastav & Co., for the
Respondent.

CORAM : R. M. JOSHI, J.

DATE : 25th SEPTEMBER, 2024.

P.C. :

1. Shri Mahesh Mehta, Petitioner appearing in person, makes a statement that the Committee of the Registrars under the Rules for Presentation and Conduct of Proceedings in Person by Parties have interviewed him in other proceeding and granted him permission to appear as party in person. This statement is accepted and he is allowed to make submission.

2. Heard Petitioner-in-person for more than 30 minutes. He has also filed on record written notes of arguments, so also compilation along with

affidavit. He has further drawn attention of the Court to the judgments' compilation which are reproduced below:

- (a) Kunhayammed vs. State of Kerla¹.
- (b) Khoday Distilleries Ltd vs. Sri Mahadeshwara Shakara Sakkare Karkhane Ltd².
- (c) Ibrat Faizan vs. Omaxe Builldhome Pvt. Ltd³.
- (d) Shri Manohar Burde s/o Ganpatrao Burde vs. The Chief Officer, Nagpur Housing & Area Development Board & Ors⁴.
- (e) Branch Manager, Bajaj Allianz Life Insurance Company Ltd & Ors. vs. Dilip Sardar⁵.
- (f) M/s. Omway Buildestate Pvt. Ltd vs. Vineet Yadav s/o Vinod Kumar Yadav⁶.

3. This Petition takes exception to the orders dated 24th April 2018 passed in Revision Petition No. 2105/2016 by National Consumer Dispute Redressal Commission, New Delhi and order dated 24th August 2018 passed in Review Application No.209/2018 with Review Application No. 210/2018 by the same Authority.

¹ 2001 (129) E. L.T. 11 (S.C) Supreme Court.

² Civil Appeal No. 2432 of 2019, Supreme Court.

³ 2022 INSC 573. Supreme Court.

⁴ Writ Petition No. 5052 of 2022. Bombay High Court, Nagpur Bench.

⁵ Civil Misc Jurisdiction No. 173 of 2024, Patna High Court.

⁶ S. B. Civil, Writ Petition No. 15335/2022, Rajashtan High Court, Jaipur Bench.

4. The Petitioner seeks to challenge these orders on various grounds as specifically stated in the Petition.

5. During the course of the hearing, the Petitioner himself has drawn attention of this Court to the fact that the orders impugned in this Petition were challenged by him before the Hon'ble Supreme Court in SLP (c) Diary No. 46970/2018. This Petition was dismissed by the Hon'ble Supreme Court by order dated 18th January 2019. The order passed by the Hon'ble Supreme Court reads thus:

“Delay condoned.

We are not inclined to interfere with the impugned order(s) passed by the High Court. The Special Leave Petitions are, accordingly, dismissed.

Pending interlocutory application(s), if any, is/are disposed of.”

6. It seems that the Petitioner thereafter filed the Review Petition before the Hon'ble Supreme Court bearing R.P.(c) No. 1424-1427/2020 in SLP(c) Nos. 2757-2760/2019.

“IA No. 56762/2020 is rejected.

Having perused the Review Petitions and the connected papers with meticulous care, we do not find any justifiable reason to entertain the review petitions.

The Review Petitions are, accordingly, dismissed.

Pending application(s), if any, shall stand disposed of.”

7. It is thereafter Curative Petition was filed bearing No. Curative Pet (c) Nos. 2-5/2024 in R.P. (c) No. 1424-1427/2020 in SLP(c) No. 2757-2760/2019. This Petition was also rejected by the Hon’ble Supreme Court by passing order dated 19th March 2024, which reads thus:

“1. Application for listing the Curative Petitions in open Court is rejected.

2. We have gone through the Curative Petitions and the connected documents. Our opinion, no case is made out within the parameters indicated in the decision of this Court in **Rupa Ashok Hurra v Ashok Hurra, (2002) 4 SCC 388.**

3. The Curative Petitions are dismissed.”

“1. Application for listing the Curative Petitions in open Court is rejected.

2. The Curative Petitions are dismissed in terms of the signed order.

3. Pending application, if any, stands disposed of.”

8. The Petitioner wants this Court to entertain this Petition, on the basis of the judgment of the Hon’ble Supreme Court in case of Ibrat Faizan v. Omaxe Buildhome Private Limited [supra], wherein it was held by the Hon’ble Supreme Court that this Court has jurisdiction to entertain a Writ Petition against the order passed by the National District Consumer Redressal Commission in a revision filed against the order passed by the

State Commission. It is his further submission that the Hon'ble Supreme Court has not recorded reason while dismissing the Special Leave Petition and therefore it is open for him to file present Petition challenging the impugned orders.

9. These submissions of Petitioner are devoid of merit in the facts of the case. The orders impugned herein were already challenged before the Hon'ble Supreme Court by filing SLP, which came to be dismissed after hearing the Petitioner. The Review Petition filed against the said order also resulted into dismissal. So also, Curative Petition was not entertained.

10. In light of these facts, it is not open for the Court to entertain this Petition challenging impugned order, challenge to which, is rejected by Hon'ble Supreme Court. Thus, it does not stand for any justification for the Petitioner to file Petition before this Court challenging the same orders.

11. In considered view of this Court, this amounts to nothing but abuse of process of law. As result of which, the Petition is not only required to be dismissed at threshold but with exemplary cost. This Court would have been justified in imposing heavy cost on the Petitioner. However, considering the fact that the Petitioner is a Senior Citizen, the cost is quantified at Rs.10,000/- only.

12. The cost is payable to Mahila Vikas Mandal, Colaba in Account No. 03820100002611, Bank of Baroda, Backbay Reclamation Branch, Mumbai – 20, IFSC Code- BARB0BACKBA. The cost be paid within a period of two weeks.

13. After this order was dictated, and before it could be signed, the Petitioner-in-person requests this Court for permitting him to withdraw the Petition.

14. He further makes a voluntary statement that he is ready to pay a sum of Rs.2,000/- to Mahila Vikas Mandal, Colaba.

15. Ordinarily, this Court would not have permitted any party to withdraw Petition like this after order is dictated. However, considering the fact that there seems remorse on the part of the Petitioner in filing this Petition and as he claims that it was filed on wrong assumption, this Court permits him to withdraw the Petition subject to payment of the said cost of Rs.2,000/- within a period of two weeks to Mahila Vikas Mandal, Colaba.

16. Petition therefore stands dismissed as withdrawn subject to payment of cost as indicated above.

(R. M. JOSHI, J.)