

M/L 151
13.05.2025
Court No.14
PRADIP

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 7291 of 2025

Cannon Properties Private Limited
Vs.
National Consumer Disputes Redressal
Commission & Ors.

Mr. Suddhasatva Banerji
Mr. Sagnik Majumdar
Mr. Pushan Kar
Mr. Aurin Chakraborty
Ms. Shreya Ghosh

...for the Petitioner.

Mr. Sushanta Pal

...for the Respondent No. 2.

Mr. S.R. Saha

...for the Respondent No.3.

1. The petitioner is aggrieved by the final order/judgment passed by the State Consumer Disputes Redressal Commission on 5th September, 2018 in Consumer Complaint No. 398 of 2015 in the matter on Dum Dum Club Town Residents Association, Club Town Estates Vs. Canon Properties Pvt. Ltd. affirmed by the National Consumer Disputes Redressal Commission vide order dated 7th May, 2024 passed in First Appeal No. 1784 of 2018 in the matter of Canon Properties Pvt. Ltd. Vs. Dum Dum Club Town Residents Association.
2. In both the orders, it appears that the same has been passed by a single member. According to the provision of law, there is a requirement of two members for constituting the coram.
3. The petitioner has raised the issue of *coram non judice*.

4. Reliance has been placed on order dated 28th August, 2024 passed by the Hon'ble Supreme Court in **Civil Appeal No. 3953 of 2018** in the matter of **Tiki Tar Industries (now known as Tiki Tar Industries (Baroda) Ltd.) Vs. National Insurance Company Ltd.** wherein the Court held that the judgment passed by a single member of the Tribunal is coram incomplete and the matter ought to be remanded back to the Tribunal for fresh decision. The Court was pleased to quash and set aside the impugned judgment passed by the single member.
5. Reliance has also been placed on the judgment delivered by the Hon'ble Supreme Court in the matter of **Universal Sompo General Insurance Company Limited Vs. Suresh Chand Jain & Anr.** reported in **(2024) 9 SCC 148** wherein the Court held that the petitioner is required to approach the jurisdictional High Court either by way of a writ petition under Article 226 of the Constitution of India or by way of invoking the supervisory jurisdiction of the jurisdictional High Court under Article 227 of the Constitution of India for challenging an order passed by the National Commission.
6. The Court held that appeal from order of National Commission before the Hon'ble Supreme Court will not be maintainable except in exceptional and overriding circumstances.
7. Prayer has been made to set aside the impugned order passed by the State Commission affirmed by the National Commission.

8. Learned advocate representing the respondent no. 3 submits, upon instruction that, hearing was conducted before both the members of the State Commission and the National Commission. The aforesaid respondent is not aware as to how the impugned order could be signed by only one member.
9. Learned advocate representing the respondent no. 2 submits that the writ petition will not be maintainable as there is a provision for review.
10. Upon hearing the parties, it appears from the face of records that the order passed by the State Commission affirmed by the National Commission both were signed by only a single member. The Court is not aware as to whether the other member of the Commission passed a separate judgment/order or not. The order before the Court appearing from the annexure of the writ petition is signed by only one member.
11. The Act requires a coram to be constituted by two members. After the matter is heard by two members then the view of both the members is required to be reflected in the order/judgment to be delivered by the Commission. Order passed by a single member cannot be treated to be a valid one.
12. The point of review raised by the respondent cannot be accepted. As the composition of the coram in passing the impugned order has been questioned, the provision for review is not attracted.
13. In view of the above, the impugned orders passed by the State Commission and the National Commission both are liable to be set aside and are, accordingly, set aside.

14. The matter is remanded back to the State Consumer Disputes Redressal Commission for hearing the same afresh on merits.
15. The writ petition stands disposed of.
16. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all the requisite formalities.

(Amrita Sinha, J.)