

IN THE HIGH COURT AT CALCUTTA

Civil Revisional Jurisdiction

Appellate Side

Present:

The Hon'ble Justice Hiranmay Bhattacharyya

CO 2720 of 2025

PNB Housing Finance Limited & Anr.

Versus

Arunangshu Chakraborty & Anr.

For the petitioner : Ms. Soni Ojha
Ms. Sambrita B. Chatterjee

For the opposite party :

Heard on : 06.08.2025

Judgement on : 06.08.2025

Hiranmay Bhattacharyya, J.:

1. This application under Article 227 of the Constitution of India is at the instance of the PNB Housing Finance Limited and is directed against the judgment and order dated April 21, 2025 passed by the learned National Consumer Disputes Redressal Commission, New Delhi in Second Appeal No. 148 of 2025. By the order impugned, the second appeal was rejected.

2. The opposite parties approached the petitioners for a housing loan of Rs. 5 lacs under Floating Apna Ghar Scheme repayable at monthly instalments of Rs. 5,605/- for a tenure of 180 months. As collateral securities to the said housing loan account, the opposite parties submitted 14 Kishan Vikash Patra(s) (KVP, for short) to the petitioners. It is not in dispute that the loan amount has been repaid.

3. The opposite parties approached the petitioners for adjusting the loan amount with the maturity value of the KVP certificates. Petitioners adjusted the loan amount with the maturity amount of 11 KVP certificates.

4. On November 21, 2015, the opposite parties were informed vide a letter issued by the petitioners that 3 (three) KVP certificates had been misplaced from the custody of the petitioners. The petitioners claim to have lodged a complaint before the Survey Park Police Station about the loss of 3 KVP certificates.

5. Since 3 KVP certificates were not returned to the opposite parties even after repayment of the loan amount, the opposite parties approached the District Consumer Disputes Redressal Commissioner, Kolkata Unit II, by filing a complaint case being CC NO. 490 of 2019. The petitioners contested the complaint case by filing a written version.

6. It is the specific case of the petitioners in the said written version that the petitioners lodged a complaint with the local police station and also submitted an application on January 29, 2016 before the Post Master, Baruipur Post Office for issuance of duplicate copy of the said KVP certificates but the postal authorities have not issued the KVP certificates.

7. Thus, the petitioner took a stand that in view of non-issuance of the duplicate certificates by the postal authorities, there cannot be said to be any deficiency of service on the part of the petitioners.

8. The District Consumer Disputes Redressal Forum, Kolkata Unit II passed a judgment and order dated June 14, 2023 directing the petitioners, jointly and severally, to pay to the opposite parties the maturity amount of 3 lacs of 3 (three) KVP certificates along with simple interest at the rate of 8 percent per annum from the date of maturity. The petitioners were further directed to pay a sum of Rs. 10,000/- to the opposite parties/complainants towards the litigation cost and a further sum of Rs. 25,000/- to the opposite parties towards the mental agony and harassment. The said order was directed to be complied with by the petitioners herein within a period of six weeks from the date of the said order, failing which the maturity amount shall be paid with interest at the rate of 21 percent per annum.

9. Being aggrieved by the said judgment and order dated June 14, 2023 passed in CC No. 490 of 2019, the petitioners preferred the first appeal before the State Consumer Disputes Redressal Commission, West Bengal (for short, 'State Commission') which was registered as Appeal No. SC/19/A/311/2024. The said appeal was filed with a delay of 469 days.

10. Petitioners filed an application for condonation of delay in preferring the said appeal and the State Commission (for short, 'National Commission') by an order dated January 3, 2025 rejected the application for condonation of delay.

11. Being aggrieved by the said order dated January 3, 2025, the petitioners preferred a second appeal before the learned National Consumer Disputes Redressal Commission being Second Appeal No. 148 of 2025 which stood dismissed by the order dated April 21, 2025.

12. Learned advocate appearing for the petitioners submits that the State Commission did not decide the first appeal on its merit but dismissed the same on the ground that the same was barred by limitation. She further submits that the petitioners applied before the postal authorities for issuance of duplicate KVP certificates but due to the inaction on the part of the postal authorities, the petitioners could not take steps for handing over duplicate KVP certificates to the opposite parties. She further submits that the postal authorities were necessary parties in the

said complaint case and the complaint case was liable to be dismissed on the ground of non-joinder of necessary parties.

13. Before entering into the merits of this civil revision application, this court has to first consider whether an application under Article 227 of the Constitution of India is maintainable against an order passed by the National Commission.

14. Such an issue is no longer res integra. The Hon'ble Supreme Court of India in the case of Ibrat Faizan Vs. Omaxe Buildihome Private Limited, reported at (2022) AIR (SC) 2363 held that it cannot be said that a petition under Article 227 of the Constitution of India before the concerned High Court against the order of the National Commission in an appeal under Section 58(1)(a)(iii) of the 2019 Act, is not maintainable.

15. In the case on hand, order of the National Commission passed in a second appeal challenging the order passed in a First Appeal by the State Commission, is under challenge. Thus, by applying the proposition of law laid down in *Ibrat Faizan (supra)*, this court is inclined to entertain this application.

16. After going through the application under Section 12 of the Consumer Protection Act filed by the opposite parties before the learned District Commission, this court finds that the said application was filed alleging deficiency on the part of the petitioners herein for not returning the KVP certificates even after

repayment of loan. The cause of action in the complaint case is directed only against the petitioners herein and the postal authorities cannot be said to be a necessary party in a complaint case of such nature.

17. Merely because of the fact that the petitioners herein applied before the postal authorities for issuance of duplicate KVP certificates, the postal authorities cannot be said to be a necessary party in a complaint case filed by the opposite parties alleging deficiency of service on the part of the petitioners herein. If the petitioners have reasons to feel aggrieved against the alleged inaction on the part of the postal authorities, it was well open to the petitioners to work out their remedies in accordance with law before the appropriate forum.

18. In view of the aforesaid discussion, this court is not inclined to accept the submission of the learned advocate appearing for the petitioners that the postal authorities were necessary parties in the complaint case.

19. It is not in dispute that the complainants/opposite parties have repaid the loan amount under the Floating Apna Ghar Scheme. Record reveals that the petitioner has admitted the loss of 3 number of original KPV sureties against the said loan from their custody. The original KVP certificates (3 in number) are essential for the purpose of claiming the maturity proceeds of

such certificates which admittedly the petitioner failed to return to the opposite parties after the loan amount was repaid.

20. Thus there was deficiency of service on the part of the petitioner.

21. The District Commission was right in holding that there is gross negligence and deficiency of service on the part of the petitioners herein and the loss to the complainants/opposite parties to be manifest. The District Commission was also right in observing that absence of KVP certificates have made it difficult for the complainants to get the benefit of the maturity proceeds of the KVP certificates.

22. This court does not find any infirmity in the order passed by the learned District Commission. Orders passed by the learned State Commission and the National Commission also do not suffer from any infirmity warranting interference under Article 227 of the Constitution of India.

23. Accordingly, CO 2720 of 2025 stands dismissed. There shall, however, be no order as to costs.

(Hiranmay Bhattacharyya, J.)