

09.02.2026
SL No.4
Court No.6
(gc)

CO 278 of 2026

**PS Srijan Realventure LLP
(Developer & Promoter) & Ors.
Vs.
Sri Avik Bhattacharya**

Mr. Jishnu Chowdhury, Sr. Adv.,
Mr. Deepan Sarkar,
Mr. Ratul Das,
Mr. Soumyadeb Sinha,
Ms. Abhismita Goswami

.....for the Petitioners.

Mr. Yogesh Kr. Sharma

...for the Opposite Party.

1. The petitioners are aggrieved by an order dated January 16, 2026 passed by the State Consumer Disputes Redressal Commission. The order was passed when the petitioners sought for a clarification of an earlier order dated August 7, 2025.
2. By the order dated August 7, 2025, an Engineer Commissioner was appointed by the State Commission and IA/12/2024 filed by the complainant was allowed.
3. By filing IA/12/2024, the complainant prayed for appointment of an Engineer Commissioner to conduct survey, measurement and investigation of the subject property as per the points set out in the schedule of investigation.
4. The State Commission observed that there were discrepancies with regard to the measurement of the case flat and the Engineer Commissioner was required

to be appointed accordingly, from the panel of the registry of the Commission. Cost of Rs.15,000/- as fees of Engineer Commissioner was also directed to be deposited.

5. Mr. Jishnu Chowdhury, learned Senior Advocate appearing on behalf of the petitioners submits that the learned Commission observed that the dispute was in respect of discrepancy in the measurement of the flat, and an Engineer Commissioner should be appointed by the Commission. Such observation clearly indicated that the measurement of the flat alone, was directed to be taken by the Engineer Commissioner and a report to that extent was directed to be filed. He further submits that the measurement of the flat was already taken, but no discrepancy was found. At that juncture, the Engineer Commissioner being emboldened by the order of the State Commissioner, started entering into the other areas of the property and taking measurements of those areas which were not the subject-matter of the order. As such, an application for clarification was filed before the learned Commission, inter alia, on the ground that the Engineer Commissioner was acting beyond the points of investigation and the order should be clarified and restricted to the measurement of the flat.

6. Mr. Chowdhury submits that this is not a litigation in representative capacity. The complaint was restricted to the deficiency in service provided to the complainant and not to the others. The complainant had the option of filing a complaint in representative capacity, which he did not do. By misinterpreting the order and by influencing the Engineer Commissioner, the complainant was trying to fish out evidence, to prove his case. This was not permissible in law. According to Mr. Chowdhury, this was not a case for local investigation, at best, the flat and the amenities coming with the flat could have been inspected by an Advocate Commission. The opposite party could not ask for local investigation of the project which spread over 5.23 acres and in which the interest of many other buyers are involved. He submits that, any report of the Commissioner and any decision on that report, were likely to affect the rights of other buyers, in their absence. It is urged that the application for clarification was wrongly treated as an application for review and the learned Commission failed to exercise jurisdiction, by clarifying the situation. Thus, this Court has been approached on the above grounds.

7. Mr. Chowdhury further contends that the Commission has expanded the scope of the complaint case. The Commission applied the wrong provisions of law and

treated the application for clarification, as a review. He further submits that the complaint should also fail for non-joinder of parties. The project was completed seven years ago and handed over to the association constituted under the West Bengal Housing Industry Regulatory Act, 2017.

8. The learned Advocate for the complainant submits that the agreement for sale not only provided the exact measurement and description of the flat that was to be sold, but the same was also inclusive of all common amenities and/or parts of the super built-up area. The consideration money was paid on the basis of those common facilities which included the enjoyment of the swimming pool, lawns, parks, gardens etc. The points of investigation also clearly delineated these aspects.
9. In my view, the orders impugned are appealable. The Commission had exercised its jurisdiction, inter alia, allowing the IA. An observation may have been made that the discrepancy was in relation to a flat, but by the order impugned the State Commission held that it could not be presumed that the application for appointment of an Engineer Commissioner was allowed only to the extent of measurement of the subject flat. The subject-matter of the adjudication of the dispute was not limited to the flat alone, was the conclusion of the Commission. The specific points which were mentioned in the I.A.

included all the other aspects as well. Thus, the application for clarification was rejected and it was held that there was no error apparent on the face of record. According to the Commission, although the application was for clarification, but in truth it was a review application which was being passed off as an application for clarification and was craftily designed to circumvent the statutory bar of limitation prescribed under Section 50 of the Consumer Protection Act, 2019.

10. In my view, this is not a case where the order has been passed without jurisdiction or contrary to law or in a mala fide manner, by abusing the power vested in the Commission. Under such circumstances, the arguments advanced by Mr. Chowdhury being on merits of the orders impugned, an application under Article 227 of the Constitution of India will not lie. The remedy of the petitioners is to file an appeal in terms of the provisions of the Act. This Court does not interfere with the direction upon the Engineer Commissioner, but directs the Commission not to pass any final order of acceptance of any report, that may be filed by the Engineer Commissioner for a period of two weeks from date. Within such time, the petitioners will be at liberty to approach the appropriate forum.

11. This Court has not entered into the merits of the arguments of Mr. Chowdhury. Whether the entire

exercise was to fish out evidence and whether local investigation could be directed in respect of the points involved, shall be decided by the proper forum.

12. The petitioners will be at liberty to bring it to the notice of the National Commission that this application had been pending before this Court and such aspect may be taken into consideration by the learned National Commission, towards computation of the period of limitation to file the appeal.

13. Accordingly, the revisional application is disposed of.

14. There shall be no order as to costs.

15. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)