

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.15731 OF 2025

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Shree Vinayak Cooperative Housing
Society Ltd. Through Its Secretary. ... Petitioner

V/s.

Karwa Developers
Throug Partners & Ors. ... Respondents

Dr. Abhinav Chandrachud i/b Mr. Shubhankar A.
Kulkarni, for the Petitioner.

Mr. S. B. Prabhavalkar, for the Respondents.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 19, 2026

P.C.:

1. This writ petition challenges the judgment and order passed by the National Consumer Disputes Redressal Commission in an appeal filed by the petitioner under Section 19 of the Consumer Protection Act, 1986.

2. The petitioner had filed Consumer Complaint No. 139 of 2014 before the State Consumer Disputes Redressal Commission, Maharashtra. The petitioner sought several reliefs. After considering the pleadings and documents, the SCDRC identified four issues. These were: first, the complaint that the developer conveyed a lesser area. Second, recovery of municipal taxes as per the agreement with purchasers. Third, compensation under clause 14(a) of the development agreement. Fourth, recovery of water

charges.

3. The SCDRC rejected three of the four issues because the petitioner failed to prove them. The SCDRC accepted the claim for compensation under clause 14(a) of the development agreement and awarded Rs. 5,00,000 to the petitioner.

4. The NCDRC dismissed the appeal filed by the petitioner. It held that the sum of Rs. 5,00,000 awarded by the SCDRC was in respect of all the claims raised by the petitioner.

5. The learned Advocate for the petitioner submitted that the NCDRC committed an error. The SCDRC had adjudicated four separate issues. Despite this, the NCDRC treated the compensation granted under clause 14(a) as compensation for all issues and dismissed the appeal. It was submitted that the NCDRC, as the first appellate authority, had to examine all questions of fact and law. These included mixed questions. Without such examination and separate findings on each issue, the NCDRC could not have disposed of the appeal in this manner.

6. The learned Advocate for the developer opposed the petition. He relied on the judgment of the Supreme Court in *Sobha Haiscus Condominium v Managing Director, Sobha Developers Limited and Another*, (2020) 11 SCC 328. He submitted that the condominium is not a consumer within the meaning of Section 2(1)(d) of the Consumer Protection Act, 1986. Therefore, according to him, the complaint itself was not maintainable.

7. Section 2(1)(d) of the Consumer Protection Act defines the term consumer. The Act also defines the term person. The

definition of person expressly includes a cooperative society. When both provisions are read together, it becomes clear that a cooperative society qualifies as a consumer under Section 2(1)(d). The respondents relied on the judgment in *Sobha Hibiscus*. That judgment dealt with a condominium, not a cooperative society. A condominium is not included in the definition of person under the Act. Hence the factual and legal basis for non maintainability in *Sobha Hibiscus* does not apply here. This distinction is clear from the statutory definitions on record. Therefore the reliance on *Sobha Hibiscus* to challenge the maintainability of a complaint filed by a cooperative society has no support from the text of the Act.

8. The impugned judgment shows that the NCDRC did not examine all issues raised in the appeal. The petitioner had questioned findings of the SCDRC on four separate claims. The NCDRC was required to evaluate whether the SCDRC recorded correct findings on each claim. The NCDRC did not do so. There is no discussion on three out of four claims. There is also no analysis of evidence or contractual terms relating to those claims. This indicates that the NCDRC did not act as a first appellate authority in the manner required by law.

9. The judgment of the SCDRC shows clear adjudication of four distinct claims. The SCDRC rejected three claims on the ground that the complainant failed to prove them. The SCDRC allowed only the claim under clause 14(a) of the development agreement and awarded compensation for that claim alone. Despite this clear separation, the NCDRC confined itself only to the compensation

awarded under clause 14(a). It treated that compensation as if it covered all four claims and dismissed the appeal. This approach is not supported by the record. The NCDRC had a statutory duty under Section 19 of the Act to examine facts, evidence, and findings on each claim. It had to record its conclusions with reasons. The NCDRC did not discharge this duty. This amounts to failure to exercise jurisdiction vested in it by law.

10. On the issue of applicability of *Sobha Hibiscus*, the record shows that the respondents had filed an appeal before the NCDRC which stands dismissed. The question whether *Sobha Hibiscus* applies to cooperative societies requires analysis of the statutory definitions and factual distinctions noted above. This issue will have to be examined by the NCDRC when it hears the matter afresh, since it pertains to maintainability and jurisdiction.

11. In my view, the following directions will serve the ends of justice.

12. The judgment and order dated 31 May 2024 passed by the NCDRC in Appeal No. 521 of 2017 stands quashed and set aside.

13. First Appeal No. 521 of 2017 stands restored to the file of the NCDRC.

14. The parties shall remain present before the NCDRC on 16 February 2026.

15. The NCDRC shall hear both sides and decide the appeal afresh in accordance with law.

(AMIT BORKAR, J.)