



C.R.P.(MD)No.2711 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 20.01.2026

PRONOUNCED ON : 29.01.2026

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)No.2711 of 2025

and

C.M.P.(MD)No.15912 of 2025

1.K.Abbas Ali

2.M.Umar Farooq

... Petitioners

-VS.-

M.Meharaj Begum

...Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the final order, dated 19.08.2025 passed by the National Consumer Disputes Redressal Commission at New Delhi in Diary No. 20488/NCDRC/2025-RP.

For Petitioners :Mr.A.Navaneetha Krishnan
Senior Counsel
for Mr.B.Balajivijayan

For Respondent :Mr.A.Senthil Kumar



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ORDER

The present Civil Revision Petition has been filed challenging the order passed by the National Consumer Disputes Redressal Commission at New Delhi in Diary No.20488/NCDRC/2025-RP, dated 19.08.2025.

2.Heard Mr.A.Navaneetha Krishnan, learned Senior Counsel for Mr.B.Balajivijayan, learned Counsel for the Revision Petitioners and Mr.A.Senthil Kumar, learned Counsel for the respondent.

Brief facts of the case:-

3.The respondent and the petitioners have entered into an unregistered agreement, dated 27.09.2021 agreeing that the petitioners shall construct a building to the respondent and in turn, the respondent shall pay the expenses incurred towards such construction work. As the petitioners, after receiving the cost and expenses incurred towards construction, did not pave attention towards completion of the construction, the respondent has filed a complaint in Consumer Complaint No.129 of 2023 before the District Consumer Disputes



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Redressal Commission, Thanjavur (hereinafter, referred to as “the District Commission”). In the said complaint, the petitioners were set *ex parte*.

4.The District Commission, vide order, dated 28.08.2024, had partly allowed the said petition. Assailing the same, the petitioners herein have filed a revision petition before the State Consumer Disputes Redressal Commission, Tamil Nadu (Madurai Circuit Bench) (hereinafter, referred to as “the State Commission”), which had dismissed the said revision, as not maintainable. Challenging the same, the petitioners have filed a revision in Diary No. 20448/NCDRC/2025-RP before the National Consumer Disputes Redressal Commission at New Delhi hereinafter, referred to as “the National Commission”). The National Commission vide impugned order, dated 19.08.2025, had dismissed the said revision. Assailing the same, the present Civil Revision Petition has been filed.

5.Mr.A.Navaneetha Krishnan, learned Senior Counsel for the petitioners submitted that the *ex parte* order was passed, as if the notice of summon was served on the revision petitioners. He pointed out that notice was sent to the



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address of the petitioners shown in the cause title. However, they did not receive any such notice, as they were residing in a different address and therefore, the notice was never served on them and they were set *ex parte*. He relied upon Ex-A6, which is an original returned notice cover and the District Commission has not examined with regard to the veracity of the returned cover and has proceeded further to pass an order, which was challenged before the State Commission and the same was dismissed as not maintainable. The National Commission ought to have considered the fact that the respondent/complainant wilfully and wantonly concealed the proper address of the petitioners, thereby, preventing the petitioners from contesting the case.

6.The learned Senior Counsel lamented that when an agreement is entered into between the parties, the same has to be registered in view of Section 17(1)(b) of the Registration Act and that when the agreement was not duly registered, the same cannot be acted upon. It is his further submission that when there is no time limit prescribed in the agreement, the District Commission has wrongly misunderstood that there is a time limit to conclude the construction within a period of six months. He further relied upon the



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definition clauses under the Consumers Protection Act, under Section 2(8) and 2(10), which deals with consumer dispute and defect.

7.The learned Senior Counsel lamented that Section 47(1)(b) of the Consumer Act confers with the jurisdiction, which is extracted hereunder:

“Section 47: Jurisdiction of State Commission.

(1) Subject to the other provisions of this Act, the State Commission shall have jurisdiction--

(a) to entertain--

(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Commission within the State, where it appears to the State Commission that such District Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity.”

8.By relying on the above provision, he pointed out that when there is an flaw pointed out in the petition filed before the State Commission with regard to the order passed by the District Commission, the correction power are always with the State Commission, which according to the learned Senior Counsel, was negatived. The learned Senior Counsel also submitted that the National Commission ought to have considered the fact that the order passed



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by the District Commission suffers from non-application of mind and was obtained by practising fraud on the Commission.

9.The learned Senior Counsel further submitted that the National Commission ought to have considered the fact that the order passed by the State Commission is without proper service of notice and without giving an opportunity to the petitioners to present their side of the case, which is a clear violation of the principle of natural justice and is null and void in the eye of law. Hence, he seeks interference of this Court.

10.*Per contra*, Mr.A.Senthil Kumar, learned Counsel for the respondent contended that the the National Commission has rightly pointed out that only an appeal has to be filed, instead of filing a revision. He also submitted that the Revision Petitioners have purposefully filed the revision instead of appeal only to over come the payment of Court fee. He pointed out that only an appeal will lie, as against the order passed by the District Commission and State Commission. Hence, he seeks dismissal of this petition.



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11.This Court considered the submissions made on either side and perused the materials available on record.

12.Admittedly, the respondent and the petitioners have entered into an unregistered agreement, dated 27.09.2021 agreeing that the petitioners shall construct a building to the respondent and in turn, the respondent shall pay the expenses incurred towards such construction work. As the petitioners, after receiving the cost and expenses incurred towards construction, did not pay attention towards completion of the construction. The aforesaid facts are not in dispute. Since there is a violation in not completing the construction within a period of six months, the respondent/complainant preferred a complaint before the District Commission. Despite service of notice to the petitioners herein, they failed to appear and therefore, an *ex parte* order was passed by the District Commission. Challenging the same, the petitioners have filed a revision before the State Commission, which was negatived and challenging the same, they have also filed a revision before the National Commission, which has also been negatived.



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13.It is the contention of the petitioners that they have not received the notice sent by the District Commission and that the respondent/complainant wilfully and wantonly concealed the proper address of the petitioners. However, from the records, it is revealed that in the agreement entered into between the petitioners and the respondent, dated 27.09.2021, the addresses of the petitioners are shown as “Janab K.Appas, son of A.S.Kadhar Husain, and Janab M.Umar Farooq, son of Mohamed Ismail, Proprietors of CRESCENT Construction, No.31, Baskara Puram, Thanjavur Taluk and Thanjavur and in the complaint filed before the District Commission, the petitioners' addresses are shown as K.Appas Ali, S/o.A.S.Kadhar Hussain, No.21, Baskarapuram, Thanjavur and M.Umar Farooq, S/o.Moahmed Ismail, No.31, Baskara Puram, Thanjavur. In this regard, the respondent has marked Ex-A6, which is an unserved notice returned cover original, dated 13.09.2023, sent to the address given in the agreement, as that of the address of the petition filed before the District Commission. Hence, it is clear that the address cited in the cause title before the District Commission and the address reflected in the building



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agreement are one and the same and that the contention of the petitioners that the respondent/complainant wilfully and wantonly concealed the proper address of the petitioners, cannot be accepted.

14.It is also to be noted that the petitioners are unable to show that at the time of notice being served on the petitioners, which was returned, they were residing in a different address and no material is produced before the Courts to establish that they were residing in a different address and that they have not received the notice. Further, in the absence of any material to show that the petitioners were residing in a different address at the relevant point of time, the notice sent to them could be presumed as a deemed service, as per Section 15 of the General Clause Act.

15.With regard to the contention of the petitioners raising the jurisdiction issue under Section 47(1)(b) of the Consumer Protection Act, as rightly concluded by the National Commission that any order passed by the District Commission is appealable order and therefore, only an appeal will lie as against the order passed by the District Commission and filing a revision is



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without jurisdiction and the State Commission has rightly dismissed the same, which was confirmed by the National Commission. It is relevant and proper to re-produce the findings of the National Commission, which as follows:

“9.Such an Order of the District Commission was clearly appealable before The State Commission in terms of Section 47(1)(iii) of the 2018 Act which is extracted hereunder:

47. (1) Subject to the other provisions of this Act, the State Commission shall have jurisdiction-

(a)to entertain

(i).....

(ii).....

(iii)appeals against the orders of any District Commission within the State:

10.The Order being appealable, yet the Petitioners for reasons best known to them were inappropriately advised to file a Revision Petition under Section 47(1)(b) of the Consumer Protection Act. The Petitioners could have requested the conversion of the same into an Appeal, but in the absence of any such request and after having heard the Counsel as recorded in the Order of the State Commission dated 28 03.2025, the Revision Petition, in our opinion, was rightly held to be not maintainable and was correctly rejected.

11.We may point out that the approach of the Petitioners to file a Revision Petition, in spite of the provision of an Appeal, seems to have been deliberately attempted, in as much as, it appears that this was done in order to avoid the statutory pre-deposit of 50% of the amount, directed to be paid under the orders District Commission, for entertaining an Appeal. Reference be had to Section 41 of the 2019 Act, which is extracted herein under

41. Any person aggrieved by an order made by the District Commission may prefer an appeal against such order to the State Commission on the grounds of facts or law within a period of forty-five days from the date of the order, in such form and manner, as may be prescribed:



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Provided that the State Commission may entertain an appeal after the expiry of the said period of forty-five days, if it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the District Commission, shall be entertained by the State Commission unless the appellant has deposited fifty per cent of that amount in the manner as may be prescribed:

Provided also that no appeal shall lie from any order passed under sub-section (1) of section 81 by the District Commission pursuant to a settlement by mediation under section 80.

*12.The statutory pre-deposit of 50% of the amount in terms aforesaid is a sine-qua-non for entertaining of an Appeal. The law is no longer res integra and has been explained by the Apex Court in the case of **Manohar Infrastructure & Constructions (P) Ltd. vs. Sanjeev Kumar Sharma, (2022) 8 SCC 474.***

13.The State Commission was therefore fully justified in rejecting the Revision Petition.

*14.Apart from this, an Order passed by the State Commission in a Revision Petition, as in the present case, is further not revisable before this Commission. The Apex Court in the case of **Koushik Mutually Aided Cooperative Housing Society Vs. Ameena Begum & Anr., 2013 SCCOnline SC 1662** has held that a revision will not lie under any statute where there is a specific provision for Appeal. Para 18 of the report holds as under:*

“18. When there is an express provision available under the CPC or any statute under which an appeal is maintainable, by-passing the same, a Revision Petition cannot be filed. It is needless to observe that in the absence of an appellate remedy, a revision may be maintainable.

*15.This law has been once again clearly explained in the Order dated 16.05.2025 passed by a Bench of this Commission in the case of **M/s.Gary Buildtech Pvt. Ltd. (now known as "Omaxe Gary Buildtech Pvt. Ltd.) vs. Nitin Saxena in NC/DN/2/2025** that refers to the earlier decisions on the subject.*



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16.The present compilation therefore as a Revision Petition for the aforesaid reasons is not maintainable and the same is accordingly dismissed without prejudice to the rights of the Petitioners to avail of the appropriate remedy in accordance with law.

*17.Needless to mention that these aspects of availability of remedies has also been dealt with in the decision of **M/s.Garv Buildtech Pvt. Ltd. (now known as "Omaxe Garv Buildtech Pvt. Ltd.)** (supra) as well.*

18. The Revision Petition is accordingly dismissed.”

16.The learned Senior Counsel for the Revision Petitioners relied upon the judgment of the Hon'ble Supreme Court in the case of **Ibrat Faizan vs Omaxe Buildhome Private Limited**, reported in **(2023) 11 SCC 594**, wherein, the Hon'ble Supreme Court held as follows:

“24.In view of the above discussion and for the reasons stated above and subject to the observations made hereinabove, it cannot be said that a writ petition under Article 227 of the Constitution before the High Court concerned against the order passed by the National Commission in an appeal under Section 58(1)(a)(iii) of the 2019 Act was not maintainable. We are in complete agreement with the view taken by the High Court. As the matter on merits is yet to be considered by the High Court, we do not express anything on merits in favour of either of the parties. However, it is observed that while considering the question of interim relief/stay, the High Court will bear in mind the observations made hereinabove.”

17.In the aforesaid case, the Hon'ble Supreme Court has stated that the revisional jurisdiction is maintainable to the High Court under Article 227 of



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Constitution of India as against the order passed by the National Commission.

The case on hand is only with regard to the revision filed before the State Commission, where, instead of filing an appeal, the petitioners have chosen to file a revision. While dismissing the revision filed by the petitioners, the National Commission has pointed out that when an appeal is filed challenging the order passed by the District Commission, 50% of the claim has to be deposited and only to avoid the deposit of 50% of the award amount, the revision petition has been filed. It is evident that the petitioners have consciously filed a revision as against the order passed by the District Commission before the State Commission, which was rightly negated and the order passed by the National Commission by giving a detailed reasons cannot be interfered for want of merits and in the light of the judgements of the Hon'ble Supreme Court, only an appeal will lie as against the order passed by the District Commission.

18.The contention of the learned Senior Counsel for the petitioners is that under Section 17(1)(b) of the Registration Act, an unregistered agreement could not be acted upon. There is a substantial force in the said argument. The



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contention of the learned Senior Counsel applicable only in a case of suit, where, the payment of Court fee is necessary with regard to the payment of stamp due, it is amenable to Section 17(1)(b) of the Registration Act, where, the documents are classified to be registered. In the absence of any registration, then such document cannot be relied upon. The said provision cannot be taken into consideration in a case of consumer complaint and therefore, the said submission is rejected.

19.The next contention of the learned Senior Counsel for the petitioners that the case on hand will not fall under the provisions of the Consumer Protections Act. Section 2(8) and 2(10) of the Consumer Protection reads as follows:

“(8) "consumer dispute" means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint;

.....

(10) "defect" means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force or under any contract, express or implied or as is claimed by the trader in any manner whatsoever in relation to any goods or product and the expression "defective" shall be construed accordingly;”



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20. When the respondent falls within the category that she is a consumer and there are catena of cases where, the builder has not complied in terms of the agreement, then the entertainment of such application before the District Commission is not barred and it has its jurisdiction to entertain the same and proceed further.

21. In view of the above, this Court do not find any error apparent on the face of the order passed by the National Commission. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

29.01.2026

Internet : Yes/No
NCC : Yes/No
Index : Yes/No

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To

The National Consumer Disputes Redressal Commission,
New Delhi.



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N.SENTHILKUMAR, J.

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Order made in
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