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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 8193/2025**

Date of Decision: **14.05.2026**

IN THE MATTER OF:

GARV BUILDTECH PVT. LTD. NOW KNOWN AS OMAXE
GARV BUILDTECH PVT. LTD.

.....Petitioner

Through: Mr Karanjot Singh Mainee,
Advocate.

versus

NITIN SAXENA

.....Respondent

Through: Respondent in person.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The petition is for the following reliefs:

"A) Pass a writ of mandamus, or any other writ as may be applicable and set aside the Order dated 16.05.2025 as passed by the Ld. NCDRC in NC/DN/2/2025;

B) Direct the Ld. NCDRC to decide the RP bearing NC/DN/2/2025 bearing title 'Garv Buildtech Pvt Ltd (now known as "Omaxe Garv Buildtech Pvt. Ltd.) V. Nitin Saxena' on merits;"

2. The petitioner, M/s Garv Buildtech Pvt. Ltd. (now known as Omaxe Garv Buildtech Pvt. Ltd.), is a company engaged in real estate development. The respondent, Mr. Nitin Saxena, is an individual who had booked a

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residential plot in the petitioner's project 'Omaxe Metro City' at Lucknow, Uttar Pradesh.

3. Disputes having arisen, the respondent filed Consumer Complaint No. CC/111/2023 before the learned District Consumer Disputes Redressal Commission-II, Delhi (DCDRC), seeking possession of the plot along with damages and compensation.

4. The petitioner filed its written statement on 14.06.2023. Subsequently, during the pendency of the complaint, certain events occurred, including an offer of possession dated 27.07.2023 and cancellation of allotment dated 05.02.2024. The petitioner filed an application under Order VI Rule 17 of the CPC seeking amendment of its written statement to bring these subsequent events on record.

5. The said application was dismissed by the DCDRC *vide* order dated 30.05.2024. Aggrieved, the petitioner filed Revision Petition No. before the Delhi State Consumer Disputes Redressal Commission (SCDRC) under Section 47(1)(b) of the Consumer Protection Act, 2019 (hereinafter 'the Consumer Act'). The SCDRC dismissed the said revision petition *vide* order dated 14.01.2025.

6. The petitioner then approached the National Consumer Disputes Redressal Commission (NCDRC) by way of a revision petition, challenging the order of the SCDRC. The NCDRC, relying upon its earlier decision in ***Vivo Mobile India Private Limited vs. SMT. Mavuram Sujatha and Ors.***¹ dismissed the said revision petition as not maintainable. Hence, the present writ petition.

7. Learned counsel for the petitioner has drawn the attention of the Court

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to various facts and circumstances and tries to emphasise that under Section 58(1)(b) of the Consumer Act, there is no such embargo for the NCDRC to read the word ‘*in any consumer dispute*’ narrowly. He has explained the provisions of Section 58(1) of the Consumer Act and submits that in erstwhile Act, the provisions of Section 21 were *para materia*. He further draws the attention of the Court to the decision passed by the Supreme Court in the case of **Karnataka Housing Board v. K.A. Nagamani**² and another decision passed by the Allahabad High Court in the case of **Ghaziabad Development Authority through its V.C. Ghaziabad vs. R.C. Saxena & Ors**³.

8. Additionally, he points out to the order dated 20.01.2025 passed by the NCDRC in **Vivo Mobile India Private Limited (supra)** and submits that the decision passed in the **Ghaziabad Development Authority**, particularly, paragraph nos. 4 and 5 of the same, has been noted by the NCDRC, and following findings have been rendered:

“44. We have considered the said submission as well, but the judgement of a High Court is binding on us. If there is any error or otherwise in the same, it cannot be corrected by us. Learned Counsel, however, urged that, as against this, the judgement of the Allahabad High Court in the case of **Ghaziabad Development Authority (Supra)** is also binding, and therefore this Commission should follow the same.

45. The Allahabad High Court held that a Writ Petition would not be maintainable in the wake of a remedy available under the provisions of the Consumer Protection Act, 1986, under Section 21(b) against an order passed by the State Commission as there is no such bar. The said position of law has been arrived at with no reference to the orders passed by other High Courts, and the Orissa High Court has proceeded to hold that the National Commission would have no jurisdiction if the order impugned before it has been passed in the exercise of appellate or revisional power

¹ Revision Petition No. 1879 of 2024

² AIR 2019 SC 2290

³ 2011 SCC OnLine All 2211



exercised by the State Commission under section 17(1)(b). This ratio has been highlighted in paragraph 23 of the reported judgement already quoted hereinabove.

46. While following the law on precedents, it is clear that the judgment in the case of Ghaziabad Development Authority (Supra) nowhere notices or considers the ratio of the judgments of the Andhra Pradesh High Court or Bombay High Court referred to above. The recital in the order of the judgment of the Allahabad High Court in paragraph 4 is to the following effect.

“4. The impugned order dated 9.8.2010 has been passed by the State Commission in exercise of revisional jurisdiction and there is no bar of second revision. As such the order passed by the State Commission in exercise of revisional jurisdiction can very well be subjected to revisional jurisdiction of the National Commission under section 21(b) of the Act.”

47. Learned Counsel for the Petitioner is, however, right in his submission that the judgments of the Andhra Pradesh High Court and Bombay High Court arose out of orders passed under Section 27 of the Consumer Protection Act, 1986 whereas this was not the issue before the Allahabad High Court in the case of Ghaziabad Development Authority (Supra). It is also correct that the said judgment has not been noticed or considered by the Orissa High Court in the 2015 judgment in the case of Oriental Bank of Commerce (Supra). Nonetheless, the judgment of the Orissa High Court was dealing with an issue of impleadment in a pending complaint and paragraph 23 extracted hereinabove categorially holds that a revision before this Commission would not lie against the revisional order of the State Commission, which once again was an observation in relation to an order passed in a pending complaint. We find the said decision to have more appropriately dealt with the contentions for arriving at the said conclusion. For the same reason also the observation made by the larger Bench of this Commission in the case of Oriental Bank of Commerce (Supra) would also not be able to override the decision of the Orissa High Court.”

9. The aforesaid submissions are opposed by the respondent, who appears in person.

10. He submits that the petitioner has already availed the remedy of revision before the State Commission under Section 47(1)(b) of the Consumer Act, and the Act provides no further remedy either by way of appeal or a second revision against an order passed by the State Commission

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in its revisional jurisdiction. He relies on the NCDRC's decision in *Vivo Mobile India Private Limited v. Smt. Mavuram Sujatha and Ors.*,⁴ wherein it was held that a second revision petition is not maintainable under Section 58(1)(b).

11. The respondent also points to the consistent view of the Andhra Pradesh High Court in *Megacity Builders v. A.P. State Consumer Disputes Redressal Commission*,⁵ the Bombay High Court in *R.B. Upadhyay v. State Commission for Consumer Disputes*,⁶ and the Orissa High Court in *Oriental Bank of Commerce v. Minarva Dash & Ors.*,⁷ all of which have held that no second revision lies against an order passed by the State Commission in its revisional jurisdiction. In *Oriental Bank (supra)*, the court held,

“17. Therefore, the order of the State Commission is appealable before the National Commission as per Section 19 of the Act which clearly stipulates that any person aggrieved by any order made by the State Commission in exercise of power conferred on it by sub-clause(i) of clause(a) of Section 17 may prefer an appeal before the National Commission. Sub clause (i) of clause(a) of Section-17 empowers the State Commission to hear original complaints. Thus, only the order passed by the learned State Commission while hearing the complaint petition under Section 17(1)(a)(i) is appealable before the National Commission under Section 19 of the Act.”

“23. In view of the aforesaid facts and circumstances, from the clear and literal language of Section 21(b) of the Act, it can be construed that revisional jurisdiction can only be exercised if some dispute is pending or has been decided by the State Commission. In other words, the National Commission would have no jurisdiction if the impugned order is passed in exercise of the appellate power or revisional power exercised by the

⁴ Revision Petition No. 1879 of 2024

⁵ MANU/AP/0768/2003

⁶ MANU/MH/0615/2010

⁷ MANU/OR/0401/2015

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State Commission under Section 17(1)(b). The power under Section 21(b) is in respect of complaint filed before the State Commission.”

12. The Court has considered the submissions made by the parties and has bestowed its due consideration to the provisions of Section 58(1)(b) of the Consumer Act.

13. In the instant case, the petitioner had already availed the remedy of revision before the State Commission. The original order was passed by the District Commission and the complaint remains pending before the District Commission. Having exercised the revisional power, the State Commission had dismissed the petition of revision and, therefore, the NCDRC was approached in the second Revision.

14. The State Commission was exercising its revisional jurisdiction under Section 47(1)(b) of the Consumer Act, against a District Commission's order, and was not exercising its original or appellate jurisdiction. While the Consumer Act provides a second appeal under Section 51(2) against appellate orders of a State Commission, it provides no statutory remedy either by way of appeal or a further revision against an order passed by the State Commission in the exercise of its revisional jurisdiction.

15. If the said provision is read in its right perspective, it would indicate that it applies only to a consumer dispute pending before or decided by a State Commission. It, thus, obviously refers to an original complaint, not a revision petition.

16. The view taken by the NCDRC seems to be strictly in accordance with the Consumer Act. There does not seem to be any scope for entertaining second revision by the NCDRC in a pending complaint before the State Commission. The Court, thus, finds no justification to interfere

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with the impugned order dated 16.05.2025.

17. Even otherwise, the scope of interference under Article 226 and 227 has been well settled and is strictly limited. A Constitution Bench of the Supreme Court in **Waryam Singh v. Amarnath**⁸ held:

“12. This power of superintendence conferred by article 227 is to be exercised most sparingly and only in appropriate cases in order to keep the Subordinate Courts within the bounds of their authority and not for correcting mere errors.”

18. The Supreme Court in **Shalini Shyam Shetty v. Rajendra Shankar Patil**,⁹ after tracing the history of Article 227, held as under:

“62(c). High Courts cannot, on the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or Courts inferior to it. Nor can it, in exercise of this power, act as a Court of appeal over the orders of Court or tribunal subordinate to it.”

“62(h). In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or Courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly exercised.”

19. This Court in the case of **Anil Kumar Seth v. Lalit Kumar Seth**,¹⁰ held:

“14. The jurisdiction of this court under Article 227 of the Constitution of India is neither appellate nor revisional. It is merely supervisory in nature. The High Court, acting under Article 227, supervises the functioning of the courts below, while exercising their judicial powers. If, therefore, the courts below are functioning in a manner which calls for correction in the exercise of the supervisory jurisdiction vested in the court under Article 227 of the Constitution of India, the court would

⁸ AIR 1954 SC 215

⁹ (2010) 8 SCC 329

¹⁰ 2022:DHC:001451



interfere; else, the court would hold its hands.”

“18. Even more restricted, therefore, would be the scope of interference by the High Court, in exercise of its supervisory jurisdiction under Article 227 of the Constitution of India, with an order passed by the court below under Order XXXIX Rules 1 and 2. It is only where the court below has exercised its jurisdiction in a palpably erroneous manner, as would call for correction by the High Court, as a supervisory court, that the High Court would act under Article 227.”

20. In view of the aforesaid, no interference is called for. Accordingly, the instant petition stands dismissed.

PURUSHAINDRA KUMAR KAURAV, J

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