

MONU KUMAR & ORS.

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v.

M/S. METROMAX INFRASTRUCTURE PVT. LTD.

(Civil Appeal No. 9963 of 2017)

FEBRUARY 14, 2020

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**[MOHAN M. SHANTANAGOUDAR AND  
R. SUBHASH REDDY, JJ.]**

*Consumer Protection Act, 1986: s.12(1)(c) – Joint complaint under s.12(1)(c) by number of consumers having the same interest – By filing separate application, complainants sought permission to file a joint complaint – NCDRC passed order dated 27.11.2015 admitting the case and issued notice to opposite party – After having admitted the consumer case and issued the notice, the impugned order was passed rejecting the application for grant of permission to file joint complaint under s.12(1)(c) and consequently rejecting the complaint – Held: As much as complaint was filed on behalf of number of individual consumers, an application was filed seeking permission to file joint complaint and after hearing the arguments, case was admitted and notice was issued – Though expressly it is not stated that permission is granted in the application seeking permission to file joint complaint, but in view of the fact that admission of the complaint is recorded in order dated 27.11.2015 and notice was issued, the permission is to be read as inherent in the order of admission – When the specific application was moved seeking permission for filing joint application and having passed order of admission by issuing notice on such application, NCDRC ought not to have rejected the application by impugned order – The grant of permission is to be read inherently into order dated 27.11.2015 – Matter remitted to NCDRC with direction to consider the matter afresh and dispose of the complaint case on its own merits.*

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CIVIL APPELLATE JURISDICTION: Civil Appeal No. 9963 of 2017.

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From the Judgment and Order dated 09.01.2017 of the National Consumer Disputes Redressal Commission at New Delhi in Consumer Case No. 1361 of 2015.

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- A Basava Prabhu S. Patil, Sr. Adv., Ashwani Kumar, S.P. Kamrah,  
Ms. Iti Sharma, Ms. Peeha Verma, Puneet Sharma, Rajesh Mahale,  
Shivendra Dwivedi, Syed Faizan Ali, Ms. Tejaswini Misra, Rachit Batra,  
Ms. Sunita Sharma, Rohit Vats, Daya Krishan Sharma, Anoop Kr.  
Srivastav, Shivkumar Gavalkar, R.N. Pareek, Vipin Kumar Saxena,  
B Shailesh Madiyal, Sudhanshu Prakash, Kartik Anand, Advs. for the  
appearing parties.

The Judgment of the Court was delivered by

**R. SUBHASH REDDY, J.**

- C 1. This civil appeal is filed, by the complainant(s) in Consumer  
Case No.1361 of 2015 filed before the National Consumer Disputes  
Redressal Commission (for short, ‘NCDRC’), aggrieved by the order  
dated 09.01.2017.

- D 2. The aforesaid complaint is filed by the appellant Monu Kumar  
and 32 others. In the joint complaint, it is alleged that there is deficiency  
of service on the part of the respondent-opposite party in respect of  
Buyer’s agreement executed between the respective complainants and  
the opposite party. As the complaint was filed under Section 12(1)(c) of  
the Consumer Protection Act, 1986 (for short, ‘the Act’), by number of  
consumers having the same interest, they sought permission to file a  
joint complaint by filing separate application. In the application for  
E permission to file joint complaint in Consumer Case No.1361 of 2015,  
the following order was passed on 27.11.2015 :

“Dated 27 Nov 2015

ORDER

- F Learned counsel for the complainants present. Arguments heard.

The case stands admitted.

- G Notice be issued to opposite party returnable on 2.8.2016 with the  
direction to the opposite party to file the written version within 30  
days from the date of receipt of notice as per Section 13 of the  
Consumer Protection Act, 1986. Time of 15 days can be extended  
by filing an application by the opposite party. In case, the written  
version is not filed within the aforesaid period, the right of the  
opposite party to file the written version shall stand forfeited.

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.....J A  
J.M. MALIK  
PRESIDING MEMBER  
.....J  
DR. S.M. KANTIKAR B  
MEMBER”

Having admitted the Consumer Case and issued notice, the impugned order is passed rejecting the application for grant of permission to file joint complaint under Section 12(1)(c) of the Act and consequently rejecting the complaint filed. C

3. We have heard learned counsels on both sides, perused the impugned order and other material on record. As much as complaint was filed on behalf of number of individual consumers, an application was filed seeking permission to file joint complaint and after hearing the arguments of the learned counsel, case was admitted and notice was issued. Though expressly it is not stated that permission is granted in the application seeking permission to file joint complaint, but in view of the fact that admission of the complaint is recorded in the order dated 27.11.2015 and notice was issued the permission is to be read as inherent in the order of admission. When the specific application was moved seeking permission for filing joint application and having passed order of admission by issuing notice on such application, the Commission ought not to have rejected the application by the impugned order. The grant of permission is to be read inherently into the order dated 27.11.2015. D E

4. For the aforesaid reasons, the impugned order is set aside, matter is remitted back to the National Consumer Disputes Redressal Commission, New Delhi with a direction to consider the matter afresh and dispose of the complaint case on its own merits. The civil appeal is accordingly allowed with a direction as indicated above. F