

SUBHECHHA WELFARE SOCIETY

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v.

M/S. EARTH INFRASTRUCTURE PVT. LTD.

(Civil Appeal Nos.9961-9962 of 2017)

FEBRUARY 14, 2020

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

Consumer Protection Act, 1986: s.12 – Recognised consumer association – Composite complaint filed by a registered welfare society on behalf of more than one consumers having grievance that they booked units with the opposite party on different dates and inspite of making major payment, possession was not delivered to them – Complaints dismissed on the ground that recognised consumer association can file complaint on behalf of single consumer only but cannot file complaint on behalf of several consumers in one complaint – On appeal, held: s.12(1)(b) r/w Explanation to s.12 envisages that voluntary registered association can file a complaint on behalf of its members to espouse their grievances – There is nothing in the said provision of the Act which restrict its application to the complaint pertaining to an individual complainant – Impugned order is, therefore, set aside and matter remitted to NCDRC for consideration afresh.

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Allowing the appeals and remitting the matter to NCDRC, the Court

HELD: 1. The finding of the NCDRC that recognised consumer association can file complaint on behalf of a single consumer, but cannot file complaint on behalf of several consumers in one complaint, is erroneous and there is no legal basis for that. A reading of Section 12(1)(b) of the Act read with Explanation to Section 12 is clear that voluntary registered association can file a complaint on behalf of its members to espouse their grievances. If a recognised consumer association is made to file multiple complaints in respect of several consumers having a similar cause of action, that would defeat the very purpose.
[Para 7][813 F-H; 814-A]

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- A CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 9961-9962 of 2017.

From the Judgment and Order dated 06.12.2016 of the National Consumer Disputes Redressal Commission at New Delhi in Complaint Nos. 1196 and 1197 of 2016 and order dated 05.01.2017 in R.A. Nos.

- B 312 and 313 of 2016.

With

Civil Appeal Nos. 9959-9960 of 2017.

Basava Prabhu S. Patil, Sr. Adv., Ashwani Kumar, S.P. Kamrah,

- C 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, Shailesh Madiyal, Sudhanshu Prakash, Kartik Anand, Advs. for the appearing parties.

- D The Judgment of the Court was delivered by

R. SUBHASH REDDY, J.

1. These civil appeals are filed by the complainant in Consumer Complaint Nos. 1196 and 1197 of 2016, aggrieved by the order dated

- E 06.12.2016 and the order dated 05.01.2017 in R.A. Nos. 312 and 313 of 2016 passed by the National Consumer Disputes Redressal Commission (for short, 'NCDRC'), New Delhi.

2. The appellant-complainant is a registered Welfare Society. Consumer Complaint No. 1196 of 2016 has been filed by the complainant

- F on behalf of 8 allottees and Consumer Complaint No. 1197 of 2016 has been filed by the complainant on behalf of 12 allottees with the allegations that buyers booked units with the opposite party on different dates and inspite of making major payment, possession has not been delivered to them. In the aforesaid complaint directions are sought against the opposite party to hand over possession of units in all respects or in the alternative G to provide other flat of identical size or to refund the amount deposited along with interest and compensation.

3. It is the case of the appellant that the complainant being a society registered under Haryana Registration and Regulation Act has filed complaint on behalf of allottees, under Section 12(1)(b) of the

- H Consumer Protection Act, 1986 (for short, 'the Act').

4. Both the complaints filed by the appellant-complainant are dismissed vide impugned order dated 06.12.2016 on the ground that recognised consumer association can file complaint on behalf of single consumer only, but cannot file complaint on behalf of several consumers in one complaint. Review applications preferred against the dismissal of the complaints have also been dismissed vide order dated 05.01.2017 which order is also under challenge.

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5. We have heard Sri Ashwani Kumar, learned counsel appearing for the appellant. Inspite of service of notice, there is no appearance on behalf of the respondent.

6. Learned counsel appearing for the appellant has submitted that the reasoning assigned by the NCDRC for dismissing the complaints as not maintainable, is erroneous as much as there is no restriction on the voluntary registered association to file complaint on behalf of single consumer only. It is submitted that the restriction as recorded in the impugned order will defeat the very purpose of registering an association. Learned counsel has also brought to our notice an order of the NCDRC in Consumer Complaint No.816 of 2016 wherein the Tribunal has recorded a finding that, Section 12(1)(b) of the Act does not preclude the recognised consumer association from filing a composite complaint on behalf of more than one consumers, having a similar grievance against the seller of the goods or the provider of services, as the case may be. Further, it is submitted that the said order is affirmed by this Court as the Civil Appeal Nos.10882 of 2016 etc. titled M/s. Amrapali Sapphire Developer Pvt. Ltd. v. M/s. Amrapali Sapphire Flat Buyers Welfare Association preferred against the orders passed by the NCDRC are dismissed by order dated 21.02.2017.

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7. Having considered the submissions made by the learned counsel for the appellant and on perusal of the impugned order and other material placed on record, we are of the view that the finding of the NCDRC that recognised consumer association can file complaint on behalf of a single consumer, but cannot file complaint on behalf of several consumers in one complaint, is erroneous and there is no legal basis for that. From a reading of Section 12(1)(b) of the Act read with Explanation to Section 12 it is clear that voluntary registered association can file a complaint on behalf of its members to espouse their grievances. There is nothing in the aforesaid provision of the Act which would restrict its application to the complaint pertaining to an individual complainant. If a recognised

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- A consumer association is made to file multiple complaints in respect of several consumers having a similar cause of action, that would defeat the very purpose of registration of a society or association and it would result only in multiplicity of proceedings without serving any useful purpose.
- B 8. We are in agreement with the view taken by the NCDRC in interpreting the provisions of Section 12(1)(b) of the Act in order dated 30th August 2016 in Consumer Complaint No.816 of 2016 passed in the case of Amrapali Sapphire Flat Buyers Welfare Association etc. v. Amrapali Sapphire Developers Pvt. Ltd. etc. which is also affirmed by this Court by virtue of dismissal of Civil Appeal Nos.10882 of 2016 etc. vide order dated 21.02.2017.
 - 9. For the aforesaid reasons, these civil appeals are allowed and the impugned common order dated 06.12.2016 passed in Consumer Complaint No.1196 and 1197 of 2016 and the orders dated 05.01.2017 passed in R.A. Nos.312 and 313 of 2016 are set aside. The matter is remitted back to the National Consumer Disputes Redressal Commission, New Delhi with a direction to consider the complaints on merits and pass appropriate orders. It is made clear that the observations made in this order are only for the purpose of disposal of these appeals which are directed against the order of the NCDRC dismissing the complaints
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- E *in limine* on the ground of maintainability. It is open for the Commission to consider the grievance(s) raised in the complaints on its own merits.

Devika Gujral

Appeals allowed and matter remitted to NCDRC.