STATE CONSUMER DISPUTES REDRESSAL COMMISSION

WEST BENGAL

FIRST APPEAL NO. SC/19/FA/7/2025

(Against the Order dated 21st November 2024 in Complaint No. DC/313/CC/90/2024 of the District Consumer Disputes Redressal Commission Howrah)

WITH

SC/19/IA/29/2025 (INTERIM RELIEF)

SRI TAPAN KUMAR SARDAR .....Appellant(s)

PRESENT ADDRESS - ARGORI, LICHUBAGAN, SANKRAIL,HOWRAH711

Versus

SRI SUNIL KUMAR GUPTA .....Respondent(s)

PRESENT ADDRESS - S/O. SRI SURESH KUMAR GUPTA, P-33, C.I.T. R

LAKSHMI AGARWAL

PRESENT ADDRESS - W/O. LATE PRADIP KUMAR AGARWAL URJA RE

SRI ROHIT AGARWAL

PRESENT ADDRESS - S/O. LATE PRADIP KUMAR AGARWAL URJA RE

AAYUSI AGARWAL

PRESENT ADDRESS - D/O. LATE PRADIP KUMAR AGARWAL URJA RE

SRI SAILEN KUMAR GALUI

PRESENT ADDRESS - S/O. LATE FATIK CHANDRA GALUI DUILLYA P.S.

SRI NIRANJAN GALUI

PRESENT ADDRESS - S/O. LATE FATIK CHANDRA GALUI DUILLYA P.S.

SRI SAMIR GALUI

PRESENT ADDRESS - S/O. LATE FATIK CHANDRA GALUI DUILLYA P.S.

SMT. SANDHYA GUCHAI

PRESENT ADDRESS - W/O. SRI FATIK GUCHAI NASKAR PARA, P.O.- I

SMT. ARATI MONDAL

PRESENT ADDRESS - W/O. SRI MAHADEB MONDAL KHARIA MAYANI

SMT. MIRA POLLEY

PRESENT ADDRESS - W/O. SRI RABIN POLLEY SOUTH DUILLYA, P.S. S

SRI GHANSHYAM DEY

PRESENT ADDRESS - S/O. LATE PROMOTHO NATH DEY DUILLYA,P.S.-

BEFORE:

HON'BLE MR. JUSTICE BIBHAS RANJAN DE , PRESIDENT

HON'BLE MRS. MRIDULA ROY , MEMBER

FOR THE APPELLANT: Mr.N.K.Perumal (Advocate)

FOR THE RESPONDENT: SRI SUNIL KUMAR GUPTALAKSHMI AGARWALSRI ROHIT AGARWALAAYUSI AGARWALSRI SAILEN KUMAR GALUISRI NIRANJAN GALUISRI SAMIR GALUISMT. SANDHYA GUCHAISMT. ARATI MONDALSMT. MIRA POLLEYSRI GHANSHYAM DEY

DATED: 03/08/2026

ORDER

HON'BLE MR. JUSTICE BIBHAS RANJAN DE, PRESIDENT

1. Brought before this Forum is an appeal challenging the legal sanctity of Orders dated 21.11.2024 engineered within both M.A Case No.59 of 2024 and Complaint Case No.CC/90/2024 by the Ld. District Consumer Disputes Redressal Commission, Howrah (hereinafter referred to as Jurisdictional DCDRC). By these orders, the Ld. Jurisdictional DCDRC rejected the Complaint Case by the following orders :

"Miscellaneous Application No.MA/59/2024
In
Complaint Case No.CC/90/2024

Dated 21 Nov 2024
Order No.: 4
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For the purpose of deciding the fate of this M.A. case, there is urgent necessity of making scrutinize of the materials of this M.A. case as well as there is also necessity of scanning the materials of the above noted complaint case. After going through the materials of the case record, it is reflected that the dispute involved in the above noted complaint case is related with shop room. The complainant side in support of their point of contention that the complainant is intending to run the shop room for the purpose of livelihood has not filed any cogent documents such as Income Tax Return, Sale Tax Return or GST return and Municipal Tax return etc.

In view of such position, it cannot be said the complainant is intending to run the said shop room for the purpose of livelihood.

In this regard it is the settled principle of law that Commercial Dispute cannot be decided in a summary trial proceeding under Consumer Protection Act, 1986 and so complaint petition is not maintainable. This observation has been pronounced by the Hon'ble Apex Court in the case of Annapurna B.Uppin & Others ..... Applicant Vs Malsiddapp & Anr.....respondent which is reported in 2024(3) Indian Civil Cases 291 (S.C.) and so it is crystal clear that the complainant case No.90/2024 is not maintainable in the eye of law.

Considering all the above noted factors, this District Commission is of the view that this M.A. case is required to be allowed on contest.

In the result,

it is accordingly

ordered

that the M.A. case No.59/2024 which has been arisen from C.C. Case No.90/2024 is allowed on contest.

It is held that the C.C. case No.90/2024 is not maintainable in the eye of law and so the C.C. case No.90/2024 is dismissed on contest.

No order is passed as to cost.

Let this case record of M.A. case be tagged with the case record of C.C. case No.90/2024."

&

"Complaint Case No.CC/90/2024

(Date of Filing : 15 May 2024)

Dated : 21 Nov 2024

Order No.8

Today is fixed for awaiting order of M.A. case No.38/2024, MA/53/2024 and MA/59/2024. It appears that this District Commission has already disposed of the above noted 3 (three) M.A. cases out of which the M.A. case No.38/2024 and MA/53/2024 have been dismissed on contest. However, the M.A. case No.59/2024 has been allowed on contest.

In the said M.A. case this District Commission has observed that this C.C. case is not maintainable in the eye of law. So, this complaint case is dismissed on contest. No order is passed as to cost."

BACKGROUND FACTS

2. The complaint case was filed by the complainant/appellant herein for execution and registration of a deed of conveyance in respect of subject shop room after possessing the same from August, 2013. He paid Rs.6 lacs out of total consideration of Rs.7,14,000/-. The consumer complaint was filed with a prayer for direction for execution and registration of the deed of conveyance along with compensation.

ARGUMENT

3. Mr. Bipradas Bhattacharyya, Ld. Counsel appearing on behalf of the appellant has submitted that in paragraph 4 of the consumer complaint clearly suggested that the complainant intended to purchase shop room for his livelihood and from that point of view, he is a consumer u/s 2(7) of the Consumer Protection Act, 2019. It is further submitted that the complaint was filed seeking direction for registration of the deed of conveyance and that is why question of filing documents in respect of subject shop room does not arise.

4. In opposition to that, Mr.Ram Sewak Rai, Ld. Counsel for the respondent has contended that Ld. Jurisdictional DCDRC rightly observed that the complaint was filed seeking direction of registration of the shop room for commercial purpose which is not coming within the purview of the Consumer Protection Act, 2019. In support of his contention, he relied on the following cases :

- Molina Dey Vs. Runa Kundu reported in 2025(2) Indian Civil Cases 515 (Cal.)
- Annapurna B. Uppin & Ors. Vs. Malsiddappa & Anr. reported in 2024(3) Indian Civil Cases 291 (S.C.)

DECISION

5. At the very outset, before delving into the merit, we find it appropriate to reproduce the relevant portion of the definition of "consumer" embedded in the Consumer Protection Act, 2019 as follows :

"Section 2(7) Consumer means any person who –

*(i) **********.*

*(ii) **********.*

Explanation. - For the purposes of this clause, -

(a) the expression "commercial purpose" does not include use by a person of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment;

*(b) **********;"*

6. We have perused the judgments relied on behalf of the respondents. The factual matrix of the cases adjudicated by the Hon'ble High Court diverges materially from the matter at bar; consequently, the legal principles enshrined therein cannot be seamlessly superimposed upon the unique landscape of the present dispute.

7. A careful perusal of the consumer complaint – particularly paragraph 4 – reveals that the complainant's true intent was to purchase a shop room to earn his livelihood through self-employment. This ambition squarely fits within the protective ambit of a "Consumer", as carved out by the explanation to Section 2(7) of the Consumer Protection Act, 2019.

8. An intending purchaser of a shop room, in our humble estimation, cannot be reasonably expected to produce an exhaustive ledger of business documents at this nascent stage of the proceedings. Furthermore, the consumer application explicitly seeks the execution and registration of deed of conveyance of the subject shop room, strictly in accordance with the covenants of the agreement for sale.

9. Viewed through this legal prism, we are firmly of the opinion that the impugned orders passed by the Ld. Jurisdictional DCDRC lacks legal sustainability and are, consequently, liable to be set aside.

10. Consequently, the final Order no. 8 dated 21.11.2024, passed in connection with consumer complaint no.CC/90/2024 and Order No.4 dated 21.11.2024 passed in connection with M.A.59/2024 in CC/90/2024 are hereby quashed and set aside.

11. The Jurisdictional DCDRC is concomitantly directed to restore the consumer complaint to its file. The Ld. Forum shall proceed strictly in accordance with the statutory mandates of the Consumer Protection Act, 2019, and exert its best endeavours to ensure an expeditious adjudication of the dispute.

12. Thus, the appeal stands disposed of.

13. To facilitate an orderly advancement of justice, the contesting parties are hereby commanded to enter their appearance before the jurisdictional DCDRC on the 17th August, 2026.

14. Let a copy of this order be transmitted forthwith to the Jurisdictional DCDRC for compliance.

15. Concurrently, a copy of this order shall be supplied to the parties free of cost, in terms of the relevant rules.

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BIBHAS RANJAN DE
PRESIDENT

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MRIDULA ROY
MEMBER