DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION: RANGA REDDY

Present

SMT.CHITNENI LATHA KUMARI, PRESIDENT
SRI G.V.S.PRASAD RAO, MEMBER
SMT D.MADHAVI LATHA, LADY MEMBER

TUESDAY, THE ELEVENTH DAY OF OCTOBER
TWO THOUSAND TWENTY TWO

I.A.No.161 of 2022
In
CC No.258 of 2020

Between:

Bloomdale Owners Association,
Represented by its Secretary Mr.D.Venkata Rajulu,
Office at: Modi Bloomale Gated Community, Shamirpet Village,
Medchal-Malkajgiri Dist, Telangana.

... Petitioner/Opposite Party No.4

AND

1. Bhagavathula Venkata Subramanyamm, S/o Sri Lakshminarayana,
   Aged: 61 years, Occ: Retd. AGM, NTPC.

2. Mrs.B.Siva Kameswari, W/o Bhagavathula Venkata Subramanyam,
   Age: 58 years, Occ: Household, (Both R/o. Villa No.3)

3. Mrs.K.Shyama, W/o K.Kameswara Rao,
   Age: 54 years, Occ: Housewife.

4. Dr.K.Abhijna Rao, D/o K.Kameswara Rao,
   Age: 28 years, Occ: Doctor, (Both R/o Villa No.18)

5. Mr.K.S.K.Chakravarthy, S/o Late Gopalakrishna Murthy,
   Age: 45 years, Occ: Pvt. Employee, R/o Villa No.31.

6. Mr.G.Mallikarjun, S/o Late Sri Chennaiah,
   Age: 48 years, Occ: Asst. Professor.

7. Mrs.S.Vijayalaxmi, W/o G.Mallikarjun,
   Age: 40 years, Occ: Household, (Both R/o. Villa No.32)

8. Mr.Easo Varghese, S/o Late T.E.Gee Verghese,
   Age: 50 years, Occ: Business, R/o Villa No.38.

9. Mr.Ravi Rajasekhar, S/o Late Sri Ravi Chandrasekharam,
   Age: 65 y ears, Occ: Retd. Dy.Director, AG Dept.

10. Mrs.V.Lakshmi Prabha, W/o Ravi Rajasekhar,
    Aged about: 59 years, Occ: Household (Both are R/o Villa No.40)

11. Mr.Goverdhan T, S/o Late Sri T.Devaraj,
    Aged: 75 years, Occ: Retd. Govt. Officer.

12. Mrs.T.G.Vijaya Lakshmi, W/o T.Goverdhan,
    Aged: 70 years, Occ: Household, (Both are R/o. Villa No.56)

13. Mr.B.Raja Rao, S/o Late Sri Surya Narayana,
Age: 67 years, Occ: Retd. SE Singareni.

14. Mr.B.Venkata Surya Sashanka, S/o B.Raja Rao,
Aged about: 36 years, Occ: Service,
(Both are R/o. Villa No.58 and owners of Villa No.43, 44)

15. Air Commodore Mr.MDN Prasad, S/o Late Sri MS Murthy,
Aged: 60 years, Occ: Retd. Officer.

16. Mrs.Vijaya Prasad, W/o MDN Prasad, Age: 56 years,
Occ: Household (Both are R/o. Villa No.66)

(Respondents No.1 to 16 all are owners and residents of Boomdale Gated Community) Shamirpet Village and Mandal, Medchal District.)

... Respondents/Complainants

17. M/s. Modi Properties & Investments Private Ltd.,
Rep. by it's Managing Director, Mr.Soham Modi,
Office: 5-4-187/3&4, II-Floor, Soham Mansion,
M.G.Road, Secunderabad – 500 0 03.

18. M/s Kadakia and Modi Housing,
Rep. by it's Managing Partner, Mr.Soham Modi,
Office: 5-4-187/3&4, II-Floor, Soham Mansion,
M.G.Road, Secunderabad – 500 003.

19. Mr.Soham Modi, S/o Sateesh Modi,
Aged about: 50 years, Occ: Business,
Director of M/s. Modi Properties & Investments Pvt. Ltd.,
And partner of M/s. Kadakia & Modi Housing,
R/o Soham Mansion, Secunderabad.

... Respondents/Opposite Parties 1 to 3

Counsel for Petitioner/Opposite Party No.4 : M/s M.Hari Babu, Advocates
Counsel for Respondents/Complainants 1 to 16 : M/s K.L.B.Kumar, Advocates

O R D E R

(PER SE Smt.CHITNENI LATHA KUMARI, PRESIDENT
ON BEHALF OF THE BENCH)

This is a petition filed by the Petitioner-Opposite Party No.4 under Order VII Rule 11 of CPC r/w Sec.34(1) of Consumer Protection Act, 2019 with a prayer to reject the complaint as the consideration paid by the Respondents-Complainants exceeds rupees one crore, which exceeds the jurisdiction of this Commission.

The Respondents-Complainants resisted the complaint on three grounds i.e. (i) the Petitioner-Opposite Party No.4 has no locus standi to file the petition, (ii) the petition is filed at the fag end stage of trial and thirdly the Commission shall look into only the value of service as consideration in respect of the relief sought and not the consideration paid as contended by the Petitioner-Opposite Party.

The Respondents-Complainants filed counter and also written arguments wherein they pleaded that the Petitioner-Opposite Party No.4 has no locus standi to file this petition against the Respondents-Complainants. Further argument of the Respondents-

Complainants is that both parties filed their respective affidavit in evidence and it is coming for final arguments and at this fag end stage of the trial, the Petitioner-Opposite Party No.4 came up with the instant petition with a plea to reject the complaint on the ground of pecuniary jurisdiction which is not proper and correct and prayed for dismissal of the petition, he would have been raised as a preliminary issue at the initial stage of the case. Through written arguments, the Respondents-Complainants further relied on the judgments of Hon'ble NCDRC in *Bharat Kalra Vs M/s India Infoline Housing, Ligare Aviation Limited Vs. Oriental Insurance Company Ltd and Brigade Enterprises Ltd Vs. Anil Kumar Virmani* and stated that the Hon'ble National Commission held that for the purpose of pecuniary jurisdiction, the Commission shall look into only the value of service as consideration in respect of the relief sought. Thus, the contention of taking the entire sale consideration of the Villas by the Petitioner-Opposite Party No.4 have no force and shall not be considered by this Commission.

We have heard the both parties and perused the affidavit of the Petitioner-Opposite Party No.4 along with the citations relied by both the parties. The learned counsel for the Petitioner-Opposite Party No.4 relied on the judgment of the Hon'ble TSCDRC in R.P.No.45 of 2021 against the IA 24/2020 in CC 71/2019 against the argument of the Respondents-Complainants that the present petition cannot be entertained at this fag end of the trial. In R.P.No.45 of 2021, at para No.2 the Lordships clearly held that *'when the complaint is filed, any application to reject the case on the grounds of lack of jurisdiction, pecuniary or territorial, lack of cause of action or barred by any other law can be filed by the Petitioner-Opposite Party No.4 at any stage till the matter is pending before the trial court' and the trial court has to decide such petition/application before taking up of the disposal of the main consumer complaint.* Therefore, the contention raised by the Respondents-Complainants is not sustainable.

The second objection raised by the Respondents-Complainants is that the value of service as consideration in respect of the relief sought to be considered to decide the pecuniary jurisdiction is not sustainable. Sec.34(1) of the C.P.Act, 2019 specifically imposes duty on the District Commission to entertain the complaint where the value of the goods or services paid as consideration does not exceed rupees ** (one crore). The relevant portion of para-8 of the complaint is hereby reproduced for ready reference:

> *'That, the aforesaid Agreement of Sale are followed by a Registered Sale Deeds & Agreement for Construction vide Doct.Nos. (1) 6299/2019, dt.22.06.2019 (2) 6827/2019, dt.22.07.2019, (3) 8340/2018, dt.10.12.2018, (4) 8342/2018, dt.10.12.2018, (5) 95/2010, dt.27.01.2010, (6) 1981/2010 & 1982/2010, both dt.02.11.2010, (7) 3143/2014, dt.13.10.2014, (8) 1405/2010 dt.05.08.2010 and (9) 2578/2013, dt.26.08.2013 and the different sale considerations and valuation for construction of villas were mentioned in the said Sale Deeds and Agreement for Construction were valued at (1) Rs.23,25,000/-, (2) Rs.27,75,000/-, (3) Rs.16,38,000/-, (4) Rs.16,38,000/-, (5) around Rs.34,19,000/-, (6) Rs.36,53,000/-, (7) Rs.38,28,000/-, (8) Rs.13,25,000/- & (9) Rs.39,22,000/-. Thereafter, the Opposite Party No.3 herein*

and collected Corpus Fund of Rs.50,000/- and as well as maintenance of Rs.3,500/- per month now, from the complainants instead of Rs.2,000/- as a retort to the complainants legal correspondence and email requests.'

The above averment by the Respondents-Complainants clearly discloses that the consideration paid by the Respondents-Complainants exceeds rupees one crore. Hence, this Commission has no pecuniary jurisdiction to entertain the present complaint.

Hence, the petition is allowed.

Dictated to the Steno-typist, transcribed by her, corrected by me and pronounced by us in the Open Forum on this the 11th day of October, 2022.

Sd/-
PRESIDENT

Sd/-
MEMBER

Sd/-
LADY MEMBER

** Now it is revised to Rs.50 lakhs from Rupees One Crore, vide Cir.No.A-2/Listing/NCDRC/2021, dated 07th February, 2022

Date of Order 11-10-2022
Date of ready 26-10-2022
Date of Dispatch 26-10-2022
Date of Delivery 26-10-2022

P. Phani kumar
Sheristadar 26/10/22
Dist. Consumer Disputes
Redressal Commission, Ranga Reddy

DIS NO. 1917 dt. 26-10-2022