

**BEFORE THE NATIONAL CONSUMER DISPUTES
REDRESSAL COMMISSION, NEW DELHI**

I.A. NO. OF 2024
IN

CONSUMER COMPLAINT NO. 176 OF 2022

IN THE MATTER OF:

VISTA HOMES OWNERS ASSOCIATION

..... COMPLAINANTS

VERSUS

M/S VISTA HOMES & ANR

..... OPPOSITE PARTIES

**APPLICATION FOR DISMISSAL OF COMPLAINT ON GROUNDS OF
MAINTAINABILITY OF THE COMPLAINT**

The Opposite Parties in the present complaint most respectfully
sheweth:

It is respectfully submitted that the complaint deserves to be
dismissed summarily on the following grounds:

**THE COMPLAINT WAS FILED UNDER CONSUMER PROTECTION
ACT 1986**

1. The Complainant filed the complaint on 08.08.2022, under the
Consumer Protection Act, 1986, which is annexed herewith and
marked as **ANNEXURE IA 1**.



2. The same complaint which was filed under the Consumer Protection Act, 1986, was served to the Opposite Parties simultaneously.
3. It is pertinent to note that the Opposite Parties have filed their Vakalatnama (Diary No. 14376 dated 25.04.2023) and entered their appearance on 27.04.2023. Later, the Complainant 'altered' the nomenclature of the Complaint and there were whitener marks on the pagination as well. This came to the knowledge of the Opposite Parties when they inspected the documents for the first time on 25.04.2023. The Complainant changed the nature of the complaint to the Consumer Protection Act, 2019 and amended the complaint.
4. The Complainant without serving a copy of the amended Complaint to the Opposite Parties kept on attending the matter on 29.02.2022, 04.10.2022, 13.02.2023, 27.04.2023, 31.07.2023 and 05.01.2024 dates.
5. The Complaint is full of errors and it is not befitting the procedure and level of this Hon'ble Commission.
6. The Learned Registrar of this Hon'ble Commission noted that the "*Complaint is not fit for listing at the Court*". The Opposite Parties got this noting during the collection of certified copy on 18.08.2023. For sake of reference and convenience a true copy of the certified copy of the Registrar's remarks is annexed herewith and marked as **ANNEXURE IA 2**.
7. However, the Complainant gave an undertaking that the case be listed at his risk in the Court on 26.09.2022 and which is annexed herewith and marked as **ANNEXURE IA 3**.



8. Opposite Parties are at a loss because of the actions of the Complainant. It is pertinent to mention, that the Complaint in its current form and tenor is not the one which is served to the Opposite Parties. Also, the Opposite Parties cannot file a reply to the amended Complaint as the right to file a reply has been closed vide order of Hon'ble Commission dated 31.07.2023 which is annexed herewith and marked as **ANNEXURE IA 4**.
9. The Opposite Party is suffering an irreparable loss due to the actions of the Complainant herein. Pending this consumer complain, there is a loss of reputation of the Opposite Parties because of the unfair litigious actions of the Complainant. The Opposite Party no. 1 is a reputed brand in the field of residential housing and the present scenario is affecting other projects of Opposite Party no. 1.
10. The Complainant is having a bounden responsibility to approach the Hon'ble Commission with clean hands. Immoral approach towards the Hon'ble Commission and complete dis-regard of the rights of the Opposite Parties by not serving them the edited/amended/updated copy of the Complaint, shows the ill intention of the Complainant. In the light of the above facts the Complainant has fallen short in meeting its responsibility towards the Hon'ble Commission at all steps.
11. The Opposite Parties are seeking dismissal of the present Complaint as the Complainant is not complying with the procedure of the Hon'ble Commission.
12. The Opposite Parties further state that if the current Complaint sustains without the Opposite Parties' Reply and affidavit of evidence on record, it will amount to gross miscarriage of justice.



13. The Opposite Parties to prove their bona fide intention tried to file the Reply on the last date of hearing, i.e. on 05.01.2024, which was not accepted by the Hon'ble Commission.
14. The Hon'ble Commission must ensure that justice must prevail with respect to the period of limitation of filing of Reply by the Opposite Parties as it must start after the Complainant has served the amended copy of the Complaint to the Opposite Parties. The Complainant must also deposit a proof of service to the Hon'ble Commission.

P R A Y E R

In the light of the aforesaid, it is most respectfully prayed that this Hon'ble Commission may kindly be pleased to:

- (i) Dismiss the present Complaint on the grounds of non-maintainability;
- (ii) Dismiss the present Complaint as the Complainant has amended the Complaint without serving a copy to the Opposite Parties, hence violating the right to file a Reply; and
- (iii) Pass any such other order(s) in the interest of justice and for the protection of rights of Opposite Party 1 and 2.

AND FOR THIS ACT OF KINDNESS THE OPPOSITE PARTIES AS IN DUTY BOUND SHALL EVER PRAY.

THROUGH

ADVOCATES FOR O.P. 1 & 2
P-97, SOUTH EX-II,



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varun_mohan@outlook.com

New Delhi

20/05/2024



ATTESTED
M. SRINIVAS RAO
ADVOCATE / NOTARY
10-5-779/3/2, V. NAGAR,
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Cell : 9346444418

20 MAY 2024



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AFFIDAVIT

I, D Pavan Kumar S/o D Anjaneyulu, aged about 32 years, R/o H.no. 5-39, Parvathapur, Uppal, Medipalli, Hyderabad- 500098, Telangana, presently at Hyderabad, Telangana, do hereby solemnly affirm and state as under –

1. That I am the Customer Relationship Manager of the Opposite Party Nos 1 & 2.
2. That I have read a copy of the accompanying application and having understood the contents thereof, I say that the facts stated therein are true to my personal knowledge derived from the records and submissions made in this Interim Application being filed on behalf of Opposite Party Nos. 1 & 2.



3. That the facts stated in the above affidavit are true to my knowledge.
No part of the same is false and nothing material has been concealed therefrom.


DEPONENT

VERIFICATION:

I, the abovementioned deponent does hereby verify that the facts stated in the above affidavit are true to my knowledge. No Part of the same is false and nothing material has been concealed therefrom.

Verified at Hyderabad, Telangana on this 20/5 day of MAY 2024.


DEPONENT

ATTESTED

M. SRINIVAS RAO
ADVOCATE / NOTARY
10-5-779/3/2, V. NAGAR,
TUKARAMGATE, SEC'BAD.
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20 MAY 2024

