

BEFORE THE STATE CONSUMER DISPUTES REDDRESSAL
COMMISSION OF TELANGANA AT HYDERABAD

I.A.NO. OF 2017

IN

F.A.NO. 63 OF 2017

Between:

1. M/s Paramount Avenue,
Sister Concern of "Nilgiri Estates",
Rep. by its Managing Director,
Off: 5-4-187/3&4, II floor,
M. G. Road, Secunderabad – 500 003. (wrongly mentioned)

The correct one is :

M/s. Paramount Avenue, a partnership firm,
Rep. by its Managing Partner,
Off: 5-4-187/3&4, II floor,
M.G.Road, Secunderabad – 500 0032.

Petitioners

.....(Appellants /Opposite party No.2)

Vs.

1. S.P.S.Prasad (Salem Padmanabam Srinivas Prasad)
S/o.Late Sri Padmanabham,
Aged about : 49 years,
Occ:Employee, R/o.Flat F-2,
Sai Enclave, Besides Krupa Complex,
Safilguda, Hyderabad.

(Complainant)

2. M/s. Modi Properties and Investments Pvt.Ltd.,
Sister Concern of "Nilgiri Estates",
Rep. by its Managing Director, .
Off: 5-4-187/3&4, II floor,
M.G.Road, Secunderabad – 500 0032.

(R.2 is not necessary in this petition as there is claim at its (Opposite party No.1))

Respondents

Petition filed under section 15 & 13(3)(b) C.P.Act.

For the reasons stated in the accompanying affidavit, the petitioner herein prayed that this Hon'ble commission may be pleased to stay of all further proceedings in pursuance to the order dated 15th December, 2016 in C.C.No. 557 of 2015 on the file of the District Forum-II, Hyderabad, pending disposal of the appeal, and pass such order or orders as this Hon'ble Commission may deem just and proper.

Hyderabad

Dated: 23-01-2017

Counsel for petitioners.



BEFORE THE CONSUMER DISPUTES REDDRESSAL COMMISSION OF
TELANGANA AT HYDERABAD

I.A.NO. OF 2017

IN

F.A.NO. 63 OF 2017

Between:

1.M/s. Modi Properties and Investments Pvt.Ltd.,
Sister Concern of "Nilgiri Estates", Petitioner
.....(Appellant /Opposite party No.2)

Vs.

S.P.S.Prasad (Salem Padmanabam Srinivas Prasad)

And anotherRespondents (Complainant & O.P.1)

STAY PETITION

MANNE HARI BABU

SMT. K. KALPANA

COUNSEL FOR PETITIONERS



BEFORE THE STATE CONSUMER DISPUTES REDDRESSAL
COMMISSION OF TELANGANA AT HYDERABAD

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Between:

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Petitioners

.....(Appellants /Opposite party No.2)

Vs.

1.S.P.S.Prasad (Salem Padmanabam Srinivas Prasad)
S/o.Late Sri Padmanabham,
Aged about : 49 years,
Occ:Employee, R/o.Flat F-2,
Sai Enclave, Besides Krupa Complex,
Safilguda, Hyderabad.

(Complainant)

2.M/s. Modi Properties and Investments Pvt.Ltd.,
Sister Concern of "Nilgiri Estates",
Rep. by its Managing Director,
Off: 5-4-187/3&4, II floor,
M.G.Road, Secunderabad – 500 0032.

(R.2 is not necessary in this petition as there is claim at its (Opposite party No.1))

Respondents

AFFIDAVIT

I, SOHAM MODI, SON OF SHRI SATISH MODI, Aged about 55 years,
residing at Plot No.280, Road No.25, Jubilee Hills, Hyderabad, do hereby solemnly
affirm and state as follows.

1. I am the Managing Partners 1st of the petitioner firm herein and as such I am well acquainted with the facts of the case.
2. I submit that the 1st respondent herein is the complainant in the main complaint in C.C.No. 557 of 2015 filed before the District Consumer

Forum-II, Hyderabad alleging that there is deficiency of service in presenting the cheque prior to its date, other actions of the appellants/opposite parties as such he sought cancellation of booking and refund of the amounts, which was not, as such addressing letter dt.14.08.2015 and filed the complaint seeking various reliefs. I submit that the appellants / opposite parties specifically pleaded that the M/s Modi Properties & Investments Pvt Ltd, M/s Nilgiri Estates and M/s Paramount Avenue, are different entities represented by their respective authorized persons. We have filed the version and documents showing that the allegations of the complainant are not correct and he had approached the forum with unclean hands, in addition to the pleadings that he has booked the house in the venture of 2nd appellant / opposite party by paying an amount of Rs.1,00,000/- including the dis-honoured cheque amounts but not paid the order amounts as per the agreed terms and became defaulter, is not entitled any refund except as specified in the agreement. The 1st appellant / opposite party pleaded that the complainant paid Rs.2,00,000/- as advance for house, also entered into an tripartite agreement for obtaining house loan and promised to pay the balance amount as per the schedule mentioned therein. The respondent / complainant having financial troubles unable to pay the amounts as per the schedule of contract but made false blamed us and filed the complaint and prayed dismissal of the same. The Hon'ble on an erroneous view of the facts, evidence and law allowed the complaint directing the the appellant /opposite party No.1 to pay an amount of Rs.2,00,000/- with interest @ 9% p.a. from the payment till payment and also awarded Rs.2,000/- towards costs and dismissed the complaint against the Opposite party No.1. Aggrieved by the said order we prefer this appeal.

3. I am advised to state that there are good grounds of our success in this appeal. The grounds of appeal may be read part and parcel of this appeal.
4. I submit that pending disposal of the appeal, if the complainants are now allowed to prosecute or execute in view of the orders dated 15-12-2016 passed in C.C.No. 557 of 2014 by the District Consumer Disputes Reddressal Forum-II, Hyderabad and imposed punishment or realized the amounts other relief from our company, then it will be difficult for our company to get back anything from, in case of our success in the appeal. Therefore, it is prayed that this Hon'ble Commission may please to grant stay of all further proceedings in pursuant to the order 15-12-2016 passed in C.C.No. 557 of 2014 by the District Consumer Disputes Reddressal Forum-II, Hyderabad. Otherwise our company will be put to irreparable loss and injury.

For the reasons stated afore said it is prayed the Hon'ble Commission may be pleased to grant stay of all further proceedings in pursuant to the order dated to stay of all further proceedings in pursuance to the order dated 15th December, 2016 in C.C.No. 557 of 2015 on the file of the District Forum-II, Hyderabad, and pass such further and other orders as may be found expedient under the circumstances.

DEPONENT

SWORN AND SIGNED IN MY
PRESENCE THIS THE 25th DAY OF JANUARY, 2017

BEFORE ME : ADVOCATE, Hyderabad.

MEMORANDUM OF APPEAL UNDER SECTION 15 OF C.P.ACT.
Before the District Consumer Disputes Redressal Forum-II, Hyderabad

C.C.NO. 557 OF 2015

BEFORE THE STATE CONSUMER DISPUTES REDRESSAL
COMMISSION OF TELANGANA AT HYDERABAD

F.A.NO. OF 2017

Between:

M/s Paramount Avenue,
Sister Concern of "Nilgiri Estates",
Rep. by its Managing Director,
Off: 5-4-187/3&4, II floor,
M.G.Road, Secunderabad – 500 003. (wrongly mentioned)

The correct one is :

M/s.Paramount Avenue, a partnership firm,
Rep. by its Managing Partner,
Off: 5-4-187/3&4, II floor,
M.G.Road, Secunderabad – 500 0032. Petitioners
.....(Appellants /Opposite party No.2)

Vs.

1.S.P.S.Prasad (Salem Padmanabam Srinivas Prasad)
S/o.Late Sri Padmanabham,
Aged about : 49 years,
Occ:Employee, R/o.Flat F-2,
Sai Enclave, Besides Krupa Complex,
Safilguda, Hyderabad. (Complainant)

2.M/s. Modi Properties and Investments Pvt.Ltd.,
Sister Concern of "Nilgiri Estates",
Rep. by its Managing Director,
Off: 5-4-187/3&4, II floor,
M.G.Road, Secunderabad – 500 0032.

(R.2 is not necessary in this petition as there is claim at its (Opposite party No.1))

Respondents

The address for service of all notice and process on the above named
appellant of that of its counsel M/s Manne Hari Babu, Smt. K.Kalpna & Ghanta
Sridhar, Flat No.401, MIG 61 &62, Bhavaya's Aditya Residency, near
Narayanamma High School, Mehdiapatnam, Hyderabad.

The appellant begs to present this Memorandum of appeal to this Hon'ble Commission against the order dated 15th December, 2016 in C.C.No. 557 of 2015 on the file of the District Forum-II, Hyderabad, for the following among other:

GROUND S

1. The order of the District Forum is contrary to the facts, evidence and law as such the same is liable to be set-aside.
2. The Forum erred in law in holding that the M/s Nilgiri Estates and M/s Paramount Avenue are under the control of M/s Modi Properties & Investments Pvt Ltd is without any basis as such the impugned order is liable to be set-aside.
3. The Forum failed to note that M/s Modi Properties & Investments Pvt Ltd, M/s Nilgiri Estates and M/s Paramount Avenue different entities and are represented by their respective authorized persons as such the assumption of the forum that Modi properties & investments Pvt Ltd is managing that other two institutions as such it come wrong conclusion and unjust and unsustainable as such the same is liable to be set-aside.
4. The District Forum ought to have considered the contractual terms between the parties which are binding on them also failed to consider the law on the said aspect resulting unjust and unsustainable order and the same is liable to be set-aside.
5. The Forum ought to have considered that the complainant have lack of funds as such he has cancelled the earlier booking with the 1st opposite party but suppressing the said fact of financial troubles but simple filed the complaint with false averments as such the impugned order is liable to be set-aside.
6. The Forum erred in law in allowing the complaint against the appellant, when found that the M/s Modi Properties & Investments Pvt Ltd, M/s Nilgiri Estates and M/s Paramount Avenue different entities and the M/s Niligiri Estates

made a mistake on its part in presenting the cheque in advance as such *the* impugned order is liable to be set-aside.

7. The forum ought to have follow the precedents of the apex court and higher commissions resulting unjust and unsustainable order and the same is liable to be set-aside.

For these and other grounds that may be urged at the time of hearing of the appeal to allow the appeal and set-aside the order dated 15th December, 2016 in C.C.No. 557 of 2015 on the file of the District Forum-II, Hyderabad, consequently to dismiss the complaint.

Hyderabad

Dated.23.01.2017

Counsel for Appellant

BEFORE THE STATE CONSUMER DISPUTES REDDRESSAL
COMMISSION OF TELANGANA AT HYDERABAD

F.A.NO. OF 2015

Against

C.C.No. 557 of 2015 DCF-II, Hyderabad

Between:

M/s. Paramount Avenue, a partnership firm, Rep. by its Managing Partner,

Appellant / O P.No.2

Vs.

S.P.S. Prasad (Salem Padmanabam Srinivas Prasad).

And another.

Respondents

(complainant – O.P.No.1)

MEMO. OF APPEAL

MANNE HARI BABU & SMT. K. KALPANA

COUNSEL FOR APPELLANT

BEFORE THE STATE CONSUMER DISPUTES REDRESSAL
COMMISSION OF TELANGANA AT HYDERABAD

F.A.NO. OF 2017

Between:

M/s.Paramount Avenue, a partnership firm,
Rep. by its Managing Partner,

Appellant

Vs.

S.P.s. Prasad (Salem Padmanabam Srinivas Prasad).
And another.

Respondents

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Hyderabad

Dated 23.01.2017.

Counsel for appellant

BEFORE THE STATE CONSUMER DISPUTES REDDRESSAL
COMMISSION OF TELANGANA AT HYDERABAD

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Between:

M/s. Paramount Avenue, a partnership firm,
Rep. by its Managing Partner,
.....(Appellant /Opposite party)

Vs.

S. P. S. Prasad (Salem Padmanabam Srinivas Prasad)
And another.
.....Respondents (Complainant)

MEMO. FILED ON BEHALF OF THE APPEALANT / OPPOSITE PARTY

It is submitted that the appellant is the opposite Party in C. C. No. 557 of 2015 on the file of the District Forum-II, Hyderabad, wherein it is directed to pay an amount of Rs.2,00, 000/- with interest costs. Thus the appellant / opposite party is depositing an amount of Rs.25,000/- by way of D. D. No. dated 01.2017 drawn on, in favour the " TSCDRC, Hyderabad". Hence this memo.

Hyderabad
Date 23.01.2017.

Counsel for appellant

BEFORE THE STATE CONSUMER DISPUTES REDDRESSAL
COMMISSION OF TELANGANA AT HYDERABAD

F.A.NO. OF 2017

Against

The order in CC 557/2015 DCF-II, Hyderabad

Between:

M/s. Paramount Avenue, a partnership firm,
Rep. by its Managing Partner,

.....(Appellant /Opposite party No.2)

Vs.

S. P. S. Prasad (Salem Padmanabam Srinivas Prasad)

And another .

.....Respondent (Complainant)

MEMO. FILED ON BEHALF OF THE APPEALANT / OPPOSITE PARTY

It is submitted that the appellant is the opposite Party in C.C.No. 557 of 2015 on the file of the District Forum-II, Hyderabad, wherein it is directed to pay an amount of Rs.2,00, 000/- with interest costs. Thus the appellant / opposite party is depositing an amount of Rs.25,000/- by way of D.D.No. dated 01.2017 drawn on, in favour the " TSCDRC, Hyderabad". Hence this memo.

Hyderabad

Date 23.01.2017.

MANNE HARI BABU
SMT. K. KALPANA

Counsel for appellant

BEFORE THE STATE CONSUMER DISPUTES REDDRESSAL
COMMISSION OF TELANGANA AT HYDERABAD

F.A.NO. OF 2017

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The order in CC 557/2015 DCF-II, Hyderabad

Between:

M/s.Paramount Avenue, a partnership firm,

Rep. by its Managing Partner,

.....(Appellant /Opposite party No.2

Vs.

S.P.S.Prasad (Salem Padmanabam Srinivas Prasad)

.....Respondent (Complainant)

We, the under signed person appoint and retained

MANNE HARI BABU &SMT. K. KALPANA

Ch. Chandra Kishore, Advocates

Advocate/s to appear for me/us in the above Suit/Appeal/Petition/case and to conduct and prosecute and defend the same and all proceedings that may be taken in respect of any application for execution of any decree or order passed therein. I/We empower my/our Advocate/s to appear in all miscellaneous proceedings in the above suit or matter till all decrees or order are fully satisfied, or adjusted, to compromise and obtain the return of documents and draw any money that might be payable to me/us in the said suit or matter and I/We do further empower my/our Advocate/s to accept to on my/our behalf service of notice of all or any appeal or petition filed in any Court or appeal Reference or Revision with regard to the said suit of matter before disposal of the same in Honourable Court.

(M/s.Paramount Avenue, a partnership firm, Rep. by its Managing Partner,)

Certified that the executants who is well acquainted with English, read this Vaklatnama that the contents of this Vakalatnama were read out and explained in Urdu/Hindi/Telugu to the executants he/she/they being unacquainted with English, who appeared perfectly to understand the same and signed or put his/her/there name or mark in my presence.

Identified by: M.Hari Babu. Advocate.

Executed 20th day of January, 2017

ADVOCATE, HYDERABAD.

BEFORE THE STATE CONSUMER
DISPUTES REDRESSAL COMMISSION
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firm,
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Appellant

Vs.

S.P.s. Prasad (Salem Padmanabam Srinivas
Prasad). And another
Respondents

VAKALAT

Acceptance

MANNE HARI BABU

&

SMT. K. KALPANA

COUNSEL FOR APPELLANT

Address for services

Flat No.401, MIGH No. 61 & 62,
Bhavya's Aditya Residency,
Mdehipatnam, Hyderabad – 500 028.
Cell: 9440482681