

MEMORANDUM OF APPEAL UNDER SECTION 15 OF CONSUMER PROTECTION ACT
Before the District Consumer Forum, Ranga Reddy
C.C. No. 27 OF 2017

**BEFORE THE HON'BLE STATE CONSUMER DISPUTES REDRESSAL
COMMISSION OF TELANGANA, AT HYDERABAD**

F.A.NO. OF 2019

BETWEEN:

1. Vista Homes,
D. No. 5-4-187/3 & 4, 2nd floor
Soham Mansion, M.G. Road,
Secunderabad-500 003
Rep by its Partner Sri Bhavesh V.Mehta,
Seunderabad-5000 003

2. Mr. Soham Modi,
S/o. Sri Satish Modi, Aged about: 47 years,
Indian, Occ: Business, Partner M/s. Vista Homes,
R/o. Plot No. 280, Road No.25, Jubilee Hills,
Hyderabad-500 034.

...Appellants/Opposite Parties

AND

Smt. B. Bhavani, W/o. B.S.S. Satyanarayana,
Aged: 58 years, Indian, Occ: Housewife,
R/o. Flat No. 102, B-Block, "Vista Homes",
Kushaiguda, Hyderabad-500 062.

.....Respondent/Complainant

The address for service of all notices and process on the above named appellant of that of their counsel M. Hari Babu & K. Kalpana, Advocates, Flat No.403, 404, Bhavya's Aditya Residency, Opp: G. Narayanamma High School, Mehdipatnam, Hyderabad.

The above-named appellant begs to present this Memorandum of Appeal against the order dt. 23-03-2018 in CC No.27 / 2017 on the file of the District Consumer Forum, Ranga Reddy District, at LB Nagar, for the following and among other grounds:

GROUND S

1. The order of the District Consumer Forum is contrary to the facts, evidence and law, as such same is unsustainable and the same is liable to set aside.
2. The District Consumer Forum erroneously directed the Appellants (1) to provide water and sewerage connection sanctioned by HMWW&SB (2) to provide wooden flooring in the master bed-room of complainant or refund Rs.50,000/- (3) to pay

compensation of Rs.50,000/- and (4) costs of Rs.10,000/- is contrary to facts, evidence, and law, as such the said order is unsustainable and is liable to be set aside.

3. The District Forum failed to consider that, as per the Agreement provided by the Appellant/OP's, though there is no obligation on its part and there is no consideration for providing sewage connection and municipal water to all the Apartments including the complainant's flat but it as a moral obligation it was applied and obtained sanction for the said connections and the same is processed as such there is no deficiency on the part of OP's, as such, the impugned order is liable to be set aside.

4. The District Forum failed to consider that, at the instance of the respondent-complainant the wooden flooring was not provided to the master bed-room and provided the flooring as desired by the complainant but falsely alleged that the OP has not provided wooden flooring as per the agreement is against the fact, as such the impugned order is liable to be set aside.

5. The District Consumer Forum erred in law that, the complainant received the flat without raising any objection and the Appellant issued the No Due Certificate as on 30-05-2015 and the Respondent-Complainant is in possession of the property from that date onwards and peacefully enjoying the same, as such there is no deficiency on the part of the OP's, as such the impugned order is liable to be set aside.

6. The District Consumer Forum erred in law in not considering the fact that the Respondent-Complainant have taken the possession of the property on 30-05-2015 and lived therein for more than 1 ½ year and thereafter gave the legal notice on 05-11-2016 alleging the false deficiencies of not providing flooring as per the brochure and also alleged that no provided municipal water and sewage connection which was not promised either in the Agreement or in the Brochure but the Hon'ble Forum erroneously held that the deficiency in not providing municipal water and sewage connection is unjust, as such the same is unsustainable and is liable to be set aside.

7. The District Consumer Forum erred in law in not considering the fact that the complaint itself is barred by limitation from the date of taking possession of the property, as such, the complaint is liable to be dismissed by setting aside the unsustainable impugned order.

8. The District Consumer Forum erroneously not considering the fact that, after taking possession of the property by the Respondent-Complainant the door was damaged and it is an obligation of the complainant to rectify it, however, the Appellant-Opposite Party repaired & rectified the same with free of cost, as such, the findings of the District Forum that there is a deficiency on the part of OP's is unsustainable and is liable to be set aside. The District Consumer Forum failed to consider that while in the Agreement of Sale or in the Brochure it does not speak about for providing any municipal water or sewage connection as on the date of Agreement, no mention of the availability of municipal

water and sewage connection to the area, as such the Appellant opposite party has not promised to provide the said things, as such there is no deficiency in service on the part of the appellant as such the impugned order is unsustainable and is liable to set aside.

9. The District Consumer Forum failed to consider that there is no consideration is received for the amenities of municipal water, sewage connection, from the complainant as on the date of Agreement of Sale and in issue of the Brochure no such facility was available in the locality of the disputed flat, as such, the impugned order is unsustainable and is liable to be set to be aside.

10. The District Consumer Forum erred in law in considering the fact that, even though there is no availability of water and sewerage connection of municipality and the same was not provided in the Agreement and in the brochure, whenever such a facility was made arrangements by the municipal authorities, the Opposite parties (OP's) makes application and then also sanction the same, as such the impugned order is holding that there is deficiency on the part of Appellant/ Opposite parties unsustainable and is liable to be set aside.

11. The appellant without admitting its liability with regards to municipal water and sewerage connection, the District Forum failed to consider that the claim of the respondent / complainant is common amenity which is not maintainable without impleading all the effected persons as parties to the proceedings and also without properly mentioning the value of that claim as per the judgment of the Hon'ble National Commission in Ambrish Kumar Shukala and the same was confirmed by the Hon'ble Supreme court as such the impugned order is liable to be set-aside.

12. The District Consumer Forum erred in law in holding that there is mental agony and suffering by the Complainant was awarded Rs.50,000/-, which is against the fact that the Respondent-Complainant had enjoyed the property or more than 1 ½ years without raising any objection while taking possession of the property as such, the impugned order is liable to be setting aside.

13 The order of the District Consumer Forum in awarding Rs.50,000/- as compensation towards mental agony and suffering is without any basis and that too be against the fact, as such, the impugned order is liable to be set aside.

14. The District Consumer Forum failed to consider the precedents of the Apex Court as well as Higher commissions and accordingly, resulted in unsustainable impugned order and the same is liable to be set aside.

15. For these grounds and other grounds that may be urged at the time of Appeal. The Appellant herein prays that, this Hon'ble Commission may be pleased to allow the Appeal by setting aside the order dt. 12-03-2017 in CC No.27/2017 on the file of District Consumer Forum, Ranga Reddy District, consequently to dismiss the complaint.

Hyderabad,

Dt: -04-2019

COUNSEL FOR APPELLANTS

**BEFORE THE HON'BLE STATE CONSUMER DISPUTES REDRESSAL
COMMISSION OF ANDHRA PRADESH,
AT VIJAYAWADA**

F.A.NO. OF 2018

In

C.C. No. 75 OF 2017

BETWEEN:

1. Vista Homes,
D. No. 5-4-187/3 & 4, 2nd floor
Soham Mansion, M.G. Road,
Secunderabad-500 003
Rep by its Partner Sri Bhavesh V.Mehta,
Seunderabad-5000 003

2. Mr. Soham Modi,
S/o. Sri Satish Modi, Aged about: 47 years,
Indian, Occ: Business, Partner M/s. Vista Homes,
R/o. Plot No. 280, Road No.25, Jubilee Hills,
Hyderabad-500 034.

...Petitioners/Appellants

AND

Smt. B. Bhavani, W/o. B.S.S. Satyanarayana,
Aged: 58 years, Indian, Occ: Housewife,
R/o. Flat No. 102, B-Block, "Vista Homes",
Kushaiguda, Hyderabad-500 062.

.....Respondent/Complainant

AFFIDAVIT.

I, Soham Modi, S/o. Sri Satish Modi, Aged about: 47 years, Indian, Occ: Business, Partner M/s. Vista Homes, R/o. Plot No. 280, Road No.25, Jubilee Hills, Hyderabad-500 034, do hereby solemnly affirm on oath and sincerely state as follows:

2. I am the 2nd petitioner herein and the partner of the 1st petitioner herein, and as such I am acquainted with all the facts of the case. I am the authorized person to file affidavit on behalf of the petitioner No.1 and also as partner of it. I am giving this affidavit basing on the records and information available to our office.

3. I submit that, the respondent-complainant filed a complaint in CC No.27 /2017 before the District Consumer Forum, Ranga Reddy District, at LB Nagar alleging that there is deficiency in housing service and claimed various reliefs. We have filed written version and documents and contested the same. The District Forum on an erroneous view of facts, evidence and law allowed the complaint directing the appellant herein to (1) to provide water and sewerage connection sanctioned by HMWW&SB (2) to provide wooden flooring in the master bed-room of complainant or refund Rs.50,000/- (3) to pay

compensation of Rs.50,000/- and (4) costs of Rs.10,000/- Aggrieved by the said order we are preferring this appeal.

4. I submit that, I am advised to state that there are goods grounds of success in the Appeal and I crave leave of this Hon'ble commission to read the grounds of appeal as part and parcel of this affidavit.

5. I submit that, pending disposal of the Appeal, if the respondent-complainant is allowed to execute/prosecute us in pursuance of the impugned order dt.12-03-2019 in CC No.27/2017 on the file of DCF, Ranga Reddy District, at LB Nagar, either realized the award amount or penalize us under section-27 of CP Ac, then it is difficult for us to get back anything from her in case of our success in the present appeal.

Therefore, it is prayed that, this Hon'ble commission may be pleased to grant Stay of Operation of all further proceedings of the impugned order dt. dt.12-03-2019 in CC No.27/2017 on the file of DCF, Ranga Reddy District, at LB Naga, or otherwise we will be put to irreparable loss and injury.

Sworn & signed

DEPONENT

His name

On this day of April 2019

His name in my presence.

Manne Hari Babu, Advocate.

Before me

Advocate/Hyderabad

M. Hari Babu & K. Kalpana,
Advocates, Flat No.403, 404,
Bhavya's Aditya Residency,
Opp: G. Narayanamma High School,
Mehdipatnam, Hyderabad.

**BEFORE THE HON'BLE STATE CONSUMER DISPUTES REDRESSAL
COMMISSION OF TELANGANA, AT HYDERABAD**

F.A.I.A.NO. OF 2019

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BETWEEN:

1. Vista Homes,
D. No. 5-4-187/3 & 4, 2nd floor
Soham Mansion, M.G. Road,
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...Petitioners/Appellants

AND

Smt. B. Bhavani, W/o. B.S.S. Satyanarayana,
Aged: 58 years, Indian, Occ: Housewife,
R/o. Flat No. 102, B-Block, "Vista Homes",
Kushaiguda, Hyderabad-500 062.

.....Respondent/Complainant

PETITION FILED U/S 13 (3)(B) & 15 OF CP ACT

For the reasons mentioned in the accompanying affidavit it is prayed that this Hon'ble commission may be pleased to grant Stay of all further proceedings in pursuance of the impugned order dt.12-03-2017 in CC No.27/ 2017 on the file of District Consumer, Ranga Reddy District, at LB Nagar, pending disposal of the above Appeal, and pass such other further order or orders as this Hon'ble commission may deem just and proper.

Hyderabad

Counsel for Petitioners

Dt. -04-2019

BEFORE THE HON'BLE STATE
CONSUMER DISPUTES REDRESSAL
COMMISSION OF TELANGANA,
AT HYDERABAD

F.A.I.A.NO. OF 2019

In

F.A.NO. OF 2019

BETWEEN:

1. Vista Homes & Another
...Appellants/Opposite Parties

AND

Smt. B. Bhavani

.....Respondent/Complainant

PETITION FLED UNDER SECTION-13 (3) (B) &
15 OF CONSUMER PROTECTION ACT

Filed on: April 2019

Filed by:

M. Hari Babu & K. Kalpana,
Advocates, Flat No.403, 404,
Bhavya's Aditya Residency,
Opp: G. Narayanamma High School,
Mehdipatnam, Hyderabad.