

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
U.T., CHANDIGARH**

Appeal No.	:	198 of 2024
Date of Institution	:	15.05.2024
Date of Decision	:	10.12.2024

Smt. Neelima Joshi W/o Er. Vishwa Mohan Joshi, R/o A-1, Ekta Colony, Panjari, Shimla 171004 (H.P).

....Appellant/Complainant.

Versus

[1] Sahara Group, Regd. Office Sahara India Bhawan, 1, Kapoorthala Complex, Aliganj, Lucknow 226024, through its Chairman & Managing Director Sh. Subrata Roy Sahara.

2nd Address:

Sahara Group, Regd. Office Sahara India Bhawan, 1, Kapoorthala Complex, Aliganj, Lucknow 226024, through its Managing Worker & Chairman Sh. Subrata Roy Sahara.

[2] Sahara Group, Sahara India Bhawan, 1, Kapoorthala Complex, Aliganj, Lucknow 226024, through its Deputy Managing Director Sh. O.P. Srivastava.

2nd Address:

Sahara Group, Sahara India Bhawan, 1, Kapoorthala Complex, Aliganj, Lucknow 226024, through its Deputy Managing Worker.

[3] Sahara India, C-2, C-3, C-4, Sector 11, Rashtriya Sahara Complex, Noida (U.P) - 201301, through its Additional Director Sh. Prashant Kumar.

[4] Sahara India, SCO No.1110-1111, Sector 22-B, Chandigarh-160022, through its Regional Manager.

[5] Sahara India, SCO No.1110-1111, Sector 22-B, Chandigarh-160022, through its Sector Manager.

...Respondents/Opposite Parties.

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Er. Vishwa Mohan Joshi S/o Sh. Puran Chand Joshi R/o A-1, Ekta Colony, Panjari, Shimla 171004 (H.P).

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...Respondents/Opposite Parties.

BEFORE: JUSICE RAJ SHEKHAR ATTRI, PRESIDENT

MR. RAJESH K. ARYA, MEMBER

ARGUED BY :-

Sh. J. R. Sayal, Advocate for the appellant.

Sh. Ishtneet Bhatia, Advocate for the respondent.

PER RAJESH K. ARYA, MEMBER

The instant appeals have been filed by the respective complainants, namely, Neelima Joshi and Er. Vishwa Mohan Joshi (appellants herein) seeking setting aside of order dated 10.04.2024 vide which their consumer complaints No.247 of 2020 and 248 of 2020 respectively have been disposed of by District Consumer Disputes Redressal Commission-II, U.T., Chandigarh (in short 'District Commission') directing

them to submit their claims before the Central Registrar of Cooperative Societies. The relevant Para 11 of the impugned order reads thus:-

“11. In view of the above observations and directions of the Hon’ble Supreme Court of India, it is clear that the order and directions of the Supreme Court are binding upon all the Subordinate Courts/Tribunals being the law of the land and therefore, it can be safely concluded that the depositors of the amount should file their claim before the Central Registrar of Cooperative Societies at the earliest so that they may get the benefit as soon as possible. Hence, the complainants are allowed to submit their claim(s) before the Central Registrar of Cooperative Societies, along with all requirements, details of their bank accounts, documents of identification, proof of deposits etc. and OPs should facilitate them to get the refund of their deposited amounts, as per the determination of the Registrar, Central Cooperative Societies under the supervision and monitoring of Hon’ble Mr. Justice R Subhash Reddy, Former judge of Hon’ble Supreme Court of India with the able assistance of Shri Gaurav Aggarwal, learned Advocate appointed as Amicus Curiae in this matter. Accordingly, the present complaint as well as all connected complaint, mentioned above, stands disposed off in above terms.”

2] The District Commission gathered facts from the Consumer Complaint No.247 of 2020 titled Smt. Neelima Joshi Vs. Sahara Group and others to the effect that the complainant Smt. Neelima Joshi applied for the transfer of Sahara City Home Units, specifically unit numbers 23971200916 and 24291200085, from the names of Smt. Sonia Sandhu and Sh. Devinder Singh Saini to her name. After purchasing unit 23971200916 in Sahara City Home Chandigarh, she submitted the necessary documents for the transfer, duly completed and signed by both the seller and the purchaser. The Sector Manager, Sahara India, Chandigarh, recommended the application to the Head Office and after completing the formalities, the transfer of unit 23971200916 was successfully executed with a certificate issued (Annexure C-1). However, despite fulfilling all formalities, the transfer of the second unit 24291200085 from Sh. Devinder Singh Saini to her name was not completed. The complainant submitted the request for the transfer on 12.10.2009 and continued to follow up with the Opposite Parties and even sent letters on 07.08.2011 and 21.10.2011 but received no resolution. Eventually, the complainant requested a refund for both units, along with interest at 15% per annum since 31.03.2005 and 20.01.2005 respectively. Instead of refund, the opposite parties offered to the complainant an alternative of investing the money in another Sahara India Fixed Deposit Scheme for three years which she refused. The opposite parties proposed issuing the invoice in favor of the original allottee (the seller), deducting TDS for the seller and transferring the fixed deposit in the complainant's name. The complainant rejected this and expressed frustration as no unit or home was provided nor was the invested money refunded with no development at the site since 2005. Despite serving legal notices on 09.10.2019 and 28.11.2019 requesting refund with interest, the opposite parties failed to respond. Hence, the complainant filed complaint before the District Commission alleging deficiency in service and unfair trade practices, seeking refund, compensation and litigation expenses. In response, the opposite parties raised preliminary objections pleading that the complainant is not a consumer as she is not the original allottee, that the investment was speculative in nature and failed, that the Commission lacks territorial jurisdiction and that the complaint is barred by limitation. They also claimed that the offer to invest in the FD scheme was made as a goodwill gesture and reiterated that the complainant is not a consumer.

3] After hearing the Counsel for the parties and going through the record, the District Commission disposed of the complaints in the manner as stated above.

4] The impugned order has been assailed by the appellants on the ground that the District Commission has failed to appreciate that the ratio of judgment dated 29.03.2023 passed by the Hon’ble Supreme Court in I.A. bearing No.56308 of 2023 in Writ Petition(Civil) No.191 of 2022 titled as Pinak Pani Mohanty Versus Union of India and Others with W.P.(C)No.6/2023(X) has no application in the case of the appellants - complainants inasmuch as the said judgment relates to the depositors of Sahara Group of Cooperative Societies who were seeking refund of their deposited amounts and for that purpose, for filing their claim the depositors were relegated to the Central Registrar of Cooperative Societies; whereas the grievance of the appellants - Complainants simplicitor was that out of the two home units, one unit had

already been transferred in the name of the complainant which was earlier in the name of Ms. Sonia Sandhu. However, the second home unit, despite being cleared by the Opposite Parties for transfer, is still in the name of Sh. Devinder Singh Saini and the same has not been transferred in the name of the appealing - complainant even after repeated requests to the Opposite Parties made through letters as well legal notice. It has further been stated that by disposing off their complaints by treating the appellants – complainants to be depositors of the Sahara Group of Cooperative Societies, in the light of Pinak Pani Mohanty's case (supra), the District Commission passed an absolutely illegal and perverse order, which is not sustainable in the eyes of law and thus, deserves to be set-aside.

5] On the other hand, on behalf of the respondents – opposite parties, it has been submitted that the District Commission has rightly relegated the appellants – complainants to avail their remedy before the Registrar, Central Cooperative Societies and prayed for dismissal of the appeals. The respondents also placed reliance on the judgment of Hon'ble Supreme Court of India in case titled as *Securities and Exchange Board of India Vs. Subrata Roy Sahara & Ors.*, Contempt Petition (C) No.1820-182/2017 in Contempt Petition (C) Nos.413/2012 in C.A. No.9833/2011.

6] After hearing the rival contentions of the parties and going through the material available on record, the impugned order and the written submissions of the appellant(s), we are of the considered view that both the appeals are liable to be accepted and the impugned order is liable to be set aside for the reasons to be recorded hereinafter.

7] A careful review of the record reveals that the appellants' case before the District Commission pertains to their complaint against "Sahara Prime City Limited", a company that was not involved in the proceedings before the Hon'ble Supreme Court in the case of *Pinak Pani Mohanty* (supra). The judgment in that case specifically dealt with four cooperative societies of the Sahara Group and the company - Sahara Prime City Limited was not a party to the matter. The appellants' case, however, involves a different entity entirely —Sahara Prime City Limited, a corporate body distinct from the cooperative societies mentioned in the Supreme Court's decision. The Hon'ble Supreme Court's judgment in *Pinak Pani Mohanty* (supra) primarily focused on issues related to the Sahara Group's Multi-State Cooperative Societies and the judgment did not extend its scope to cover the operations or legal status of Sahara Prime City Limited. As a result, the District Commission made an error in interpreting the appellants as depositors within the context of the *Pinak Pani Mohanty* case (supra). This misinterpretation led to the erroneous assumption that the appellants were depositors of the Sahara Group of Cooperative Societies, when in fact they are complainants dealing with a separate entity - Sahara Prime City Limited, which was never part of the proceedings before the Hon'le Supreme Court. In our considered view, the District Commission's reliance on the *Pinak Pani Mohanty* case (supra) to determine the status of the appellants was misplaced. The appellants' grievances and claims are directly linked to this company and not to the cooperative societies addressed in the Hon'ble Supreme Court's ruling. Therefore, the District Commission erred in treating the appellants as depositors in a case that did not concern the company they are actually pursuing a claim against.

8] For the reasons recorded above, both the appeals bearing No.198 of 2024 and 199 of 2024 are allowed. The impugned order dated 10.04.2024 passed by District Commission-II, U.T., Chandigarh disposing of consumer complaints No.247 of 2020 & 248 of 2020 is set aside. The said consumer complaints are remanded back to the District Consumer Disputes Redressal Commission-II, U.T., Chandigarh for decision a fresh, after giving due opportunity of being heard to both the parties, within a period of 45 days from the date for appearance of parties to be fixed hereinafter.

9] Parties are directed to appear before the District Consumer Disputes Redressal Commission-II, U.T., Chandigarh on **20.12.2024**.

10] Complete record of consumer complaints alongwith the certified copy of this order be sent to District Consumer Disputes Redressal Commission-II, U.T., Chandigarh so as to reach there well before the date fixed.

11] Certified copies of this order be sent to the parties free of charge.

12] A copy of this order be also placed in the connected appeal file bearing No.199 of 2024.

13] Files be consigned to Record Room after completion.

Pronounced

10.12.2024.

(JUSTICE RAJ SHEKHAR ATTRI)
PRESIDENT

(RAJESH K. ARYA)
MEMBER

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