

IN THE NATIONAL CONSUMER DISPUTES
REDRESSAL COMMISSION AT NEW DELHI

RESERVED ON - 09.04.2024

PRONOUNCED ON - 16.05.2025

NC / DN / 2 / 2025

(Against the order dated 14.01.2025 in RP No.34/2024 of the Delhi State
Consumer Disputes Redressal Commission)
With – NC/IA/3698-3699/2025 (Exemption and Stay)

M/s Garv Buildtech Pvt. Ltd.
(now known as "Omaxe Garv Buildtech Pvt. Ltd.)

... Petitioner

Versus

Nitin Saxena

... Respondent

BEFORE :

HON'BLE MR. JUSTICE A.P. SAHI, PRESIDENT

HON'BLE MR. BHARATKUMAR PANDYA, MEMBER.

For the Petitioner : Mr.Karanjot Singh Mainee, Advocate
Ms.Manya Kaushik, Advocate
Mr.Azeem Parvez, Advocate
Mr.Sahil Chopra, Advocate
Ms.Sanjivini Bora, Advocate

ORDER

JUSTICE A. P. SAHI (PRESIDENT)

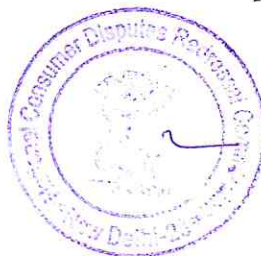
1. The present compilation presented as a Revision Petition claims a relief for setting aside the Order passed by the SCDRC,



Delhi in Revision Petition No.34 of 2024 decided on 14.01.2025 that arose out of an Order of the District Commission dated 30.05.2024 passed in a Complaint, where the application moved by the Petitioner seeking an amendment in his Written Statement was rejected.

2. The facts leading to the filing of the Revision Petition are that the Complainant filed a CC No.111 of 2023 seeking possession of the residential plot booked by him. On notice being issued to the Petitioner, a Written Statement was filed on 14.06.2023 before the District Commission denying the allegations and contending that since the Complainant had failed to make timely payments despite multiple opportunities, therefore, the Complaint was liable to be dismissed.

3. During the pendency of the Complaint before the District Commission, it appears that the Petitioner proceeded to issue a notice to the Complainant to pay interest, failing which the Unit allotment would be revoked and would be cancelled. From the Order of the District Commission it appears that the Petitioner proceeded to forfeit a certain amount out of the total amount paid by the Complainant and then refunded the same intimating that the allotment had been cancelled and that the Complainant was left with no right, title or interest in the said plot so as to continue



7. The submissions have been advanced pointing out towards the arguments that had been raised in the decision of *M/s. Vivo Mobile India (Supra)* and the same have been substantiated by further submissions advanced orally and also contained in the Short Note tendered during the course of the arguments. Since the said Written Submissions almost cover the submissions that has been raised it would be apt to quote the Paragraphs 2 to 19 of the said Written Submissions.

2. *This Hon'ble Commission has in the judgment passed on 20.01.2025 in RP No. 1879 of 2024 bearing title 'Vivo Mobile India Pvt Ltd. Vs. Smt. Mavuram Sujatha & Ors.' ("Vivo Judgment") has held that a Revision Petition assailing the orders of a Ld. State Commission in its revisional jurisdiction is not maintainable. Relevant portions of the Vivo Judgment that crystalize the ratio are reproduced hereunder for ease of reference:*

"63. Section 58(1)(iii) clearly provides for an appeal against the orders of any State Commission for which a provision is made under section 51 hereinabove. The power of revision provided for under Section 58(1)(b) can be exercised only against an order in an original complaint before the State Commission, and not against an order passed by the District Commission"

64. The provision of an appeal under the 2019 Act is distinct from Section 19 of the earlier Consumer Protection Act, 1986. A perusal of this Appellate power would indicate that the order passed by a State Commission, in a complaint



entertained by it under Section 47(1)(a)(i) and (ii), are appealable before the National Commission.

65. Sub-section (2) of Section 51 of 2019 Consumer Protection Act, further provides that save as otherwise expressly provided under the Act or by any other law, an appeal shall lie to the National Commission from any order passed in an appeal by the State Commission, if the National Commission is satisfied that the case involves a substantial question of law. This provision is of a Second Appeal against an order passed by the State Commission in its Appellate jurisdiction against any order of the District Commission. Thus, the National Commission will have the original jurisdiction of a First Appeal against the orders passed on original complaints under Section 47 (a)(i) & (ii) and a further power of Second Appeal against the order passed by the State Commission in appeal against the order of the District Commission under Section 47(1) (a) (iii), provided it involves a substantial question of law to the satisfaction of the National Commission. This change in the new Consumer Protection Act, 2019 therefore, regulates and confers a power on the National Commission to entertain a Second Appeal against the order of a State Commission passed in exercise of its Appellate powers as referred to above.

66. In view of the aforesaid statutory spread out, it is obvious that if the provision of second appeal has been made available for a challenge to an order of the State Commission's order passed in an appeal arising out of an order of the District Commission, the revisional jurisdiction of this Commission may not be available as this is the express desire and intent of the legislature. In view of all the principles that have been discussed hereinabove before and hereinabove, this commission cannot expand or elaborate



the Complaint. These facts were sought to be brought by way of an amendment in the Written Statement through an Application that was rejected by the District Commission.

4. It is against the said Order that a Revision was filed under Section 47 (1) (b) of the Consumer Protection Act that has been dismissed by the State Commission by the impugned Order dated 14.01.2025.

5. On the presentation of the present Revision Petition, the Office has submitted a Report to the following effect:-

“OFFICE REPORT

Facts in brief are that the Complainant, Shri Nitin Saxena, had booked a plot in the project developed by the Opposite Party, M/s. Garv Buildtech Pvt. Ltd. (now known as Omaxe Garv Buildtech Pvt.Ltd.). A sum of Rs.3,50,000/- was paid at the time of booking. Agreement for sale was executed on 21.02.2022. By that date the Complainant had paid a total sum of Rs.8,59,022/-.

2. The contention of the Complainant is that the Opposite Party has not provided him possession of the plot. Hence, he has approached the District Commission-II, New Delhi by filing Consumer Case No.111 of 2023 in March, 2023.

3. During the course of proceedings before the District Commission, the Opposite Party had filed an Application under Order VI Rule 17 read with Section 151 of CPC for amendment of the Written Statement and placing on record additional documents (Copy of the said Application is at pages 155 to 160). The said Application was dismissed by the Learned District Commission vide order dated 30.05.2024 (pages 62 to 64).

3. Feeling aggrieved, the Opposite Party approached the State Commission by filing Revision Petition being RP No.34 of



2024. The said Revision Petition was dismissed by the State Commission, Delhi, vide order dated 14.02.2025 (pages 52 to 61)

4. The present compilation, as a Revision Petition, is filed before this Commission against the order passed by the State Commission in the Revision Petition.

5. At the time of institution of this compilation, the Registry has raised an objection that a Revision Petition does not lie before the National Commission against the order passed by the State Commission in a Revision Petition.

6. Since the Opposite Party insisted that this matter be listed before the Bench for consideration, the same is listed before the Bench with Diary Number.

7. The issue before the Registry in this matter, i.e., "Whether a Revision Petition lies before this Commission against the order passed by the State Commission in a Revision Petition" has already been addressed by the Hon'ble National Commission in the following judgments:

(i) RP/2121/2016, Rajesh Kudi Vs. Ram Singh & Anr., pronounced on 17.09.2024;

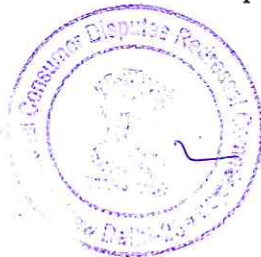
(ii). Dy.No.40215, 40216 and 40217/NCDRC/2024- RP -New India Assurance Co. Ltd Vs Paragon Steel Pvt. Ltd., pronounced on 14.01.2025; and

(iii). RP/1879/2024 Vivo Mobile India Private Limited Vs Smt Mavuram Sujatha & Ors; pronounced on 20.01.2025.

8. In view of the above, this compilation is placed before the Hon'ble Bench, with this Office Report, for kind perusal and directions.

Submitted, please."

6. The matter was adjourned on the request of the learned Counsel for the Petitioner for arguing the matter and accordingly the case was listed on 09.04.2025 on his request.



upon its jurisdiction to assume the exercise of revisional powers in respect of orders that are clearly appealable in a second appeal as pointed out above.

67. However, this therefore does not lead to the conclusion that the revisional powers of this Commission under Section 58(1)(b) would become redundant or otiose or would suffer from the Doctrine of Desuetude. The Revisional power would still be available for correcting the orders passed by the State Commission in a complaint, but will not be available for the orders arising out of a complaint before the District Commission or out of an appellate order of the State Commission. The argument advanced by the learned Counsel loses sight of the distinction that has been explained by us hereinabove.

68. In essence, the orders pending a complaint before the District Commission or after a decision would only be revisable before the State Commission and not before this Commission under Section 58(1)(b).

69. The aforesaid view has been expressed only in relation to the provisions of the Consumer Protection Act, 2019 that nowhere relates to the revisions that were filed earlier under the Consumer Protection Act, 1986 that will continue to be governed by the provisions therein.

70. For all the reasons hereinabove the issues raised in this revision about the entertaining of an application after orders are reserved, or the issue of accepting an additional document by the District Commission or being approved by the State Commission on payment of cost as is involved in the present case, coupled with the scope of the powers of the Commission under Section 38 of the 2019 Act need not be gone into as the Petitioner can avail of any remedies available

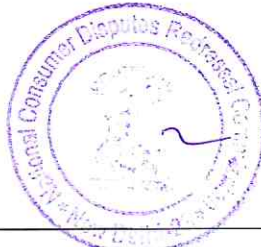


to it for raising a challenge to the same before the appropriate forum.

71. Accordingly, we do not find that the power to revise a revisional order passed by the State Commission is available to us. The order of the State Commission in the present case cannot be stated to be an order in an original complaint of a consumer dispute pending before the State Commission. Admittedly, the dispute is pending before the District Commission and not before the State Commission. Consequently, we cannot assume the revisional jurisdiction on the arguments advanced by the learned Counsel for the parties.

72. We may also point out that the remedy by way of a Writ Petition has been held to be available in the judgments referred to above, and in the absence of any statutory specific remedy, it is open to the aggrieved party to approach the jurisdictional High Court for redressal of their grievances. The compilation, therefore, presented as a Revision Petition, being not maintainable under Section 58(1)(b) of the Consumer Protection Act, 2019, is hereby dismissed."

As evinced on a considered reading of the Judgment, this Hon'ble Commission by way of the Vivo Judgment has rendered the provision of Section 58(1)(b) of the Consumer Protection Act, 2019 ("Act") completely otiose and Desuetude. Taking strength from the observations made para 66 of the Vivo Judgment, this Hon'ble Commission, being a statutory body, if cannot expand or elaborate upon its jurisdiction, it cannot curtail its jurisdiction or read down a provision of the statute, of which it is a creation. It is well settled that further as a matter of public policy, Courts must not curtail statutorily provisioned remedial mechanism available to Parties'.



3. In its essence, the Vivo Judgment essentially relying upon the Judgments of the Hon'ble High Court of Orissa in 'Oriental Bank of Commerce vs. Minarva Dash and Others' is predicated on the fact that a 'consumer dispute' would mean only a complaint. Pursuance to the said reading of the law, this Hon'ble Commission has come to a finding that the power of revision 'would still be available for correcting the orders passed by the State Commission in a complaint, but will not be available for the orders arising out of a complaint before the District Commission or out of an appellate order of the State Commission'. However, the same is not only inconsistent with the law, but is also in contravention of the 'golden rule of Interpretation of Statutes'".

4. A statute is to be construed according to the intent and the judiciary is duty bound to act upon the intent of the legislature. If a statute is open to more than one interpretation, then the court has to choose the one which fits best with the true intention of the legislature. It is well settled, that the intention of the legislature consists of two things one is the concept of 'meaning' and the other is the 'purpose and object'. The process of construction requires both of them to combine

5. A meticulous reading of the law as settled by the Hon'ble Apex Court, the Hon'ble High Courts and this Hon'ble Commission, would reveal that the finding though comprehensive, may not be sustainable and is likely to lead to ambiguity and absurdity.

Navratan Lal Sharma Vs. Radha Mohan Sharma & Ors [2024 INSC 970]

2015 SCC Online Ori 355

Section 2(8) of the Act

Section 2(6) of the Act

The golden rule, also known as the "British Rule," provides flexibility in the interpretation process by allowing deviation from the literal meaning of words to avoid absurd outcomes. In other words, this rule permits a judge to depart from the ordinary



meaning of a word when interpreting it would lead to an unreasonable result.

6. At this stage, it is submitted that the present submissions do not reiterate the contentions raised by the petitioner in the Vivo Judgment for the sake of brevity. The petitioner herein seeks leave of this Hon'ble Commission to refer and rely upon the said submissions as, if and when deemed necessary.

7. Before advertng to the submissions, the Petitioner herein craves leave to reproduce and discuss the relevant provisions of the Act vis-à-vis the provisions of the Consumer Protection Act, 1986 ("Old Act");

New Act	Old Act
Sec 2 (6) "complaint" means any allegation in writing, made by a complainant for obtaining any relief provided by or under this Act, that...	Sec 2(c) "complaint" means any allegation in writing made by a complainant that... with a view to obtaining any relief provided by or under this Act;
Sec 2 (8) "consumer dispute" means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint;	Sec 2(e)"consumer dispute" means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint;
34. Jurisdiction of District Commission. (1) Subject to the other provisions of this Act, the District Commission shall have jurisdiction to entertain complaints where the value of the goods or services paid as consideration does not exceed Fifty Lakh rupees:	11. Jurisdiction of the District Forum. (1) Subject to the other provisions of this Act, the District Forum shall have jurisdiction to entertain complaints where the value of the goods or services and the compensation, if any, claimed 3 [does not exceed rupees twenty lakhs]...



35. Manner in which complaint shall be made. (1) A complaint, in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided, may be filed with a District Commission by-	12. Manner in which complaint shall be made. (1) A complaint in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum by -
39. Findings of District Commission. (1) Where the District Commission is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services or any unfair trade practices, or claims for compensation under product liability are proved, it shall issue an order to the opposite party directing him to do one or more of the following, namely...	14. Finding of the District Forum. (1) If, after the proceeding conducted under section 13, the District Forum is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services are proved, it shall issue an order to the opposite party directing him to do one or more of the following things, namely...
51. Appeal to National Commission.-(1) Any person aggrieved by an order made by the State Commission in exercise of its powers conferred by sub-clause (i) or (ii) of clause (a) of sub-section (1) of section 47 may prefer an appeal against such order to the National Commission within a period of thirty days from the date of the order in such form and manner as may be prescribed: Provided that the National	19. Appeals. Any person aggrieved by an order made by the State Commission in exercise of its powers conferred by sub-clause (i) of clause (a) of section 17 may prefer an appeal against such order to the National Commission within a period of thirty days from the date of the order in such form and manner as may be prescribed: Provided that the National Commission may entertain an appeal after the expiry of the said period of



Commission shall not entertain the appeal after the expiry of the said period of thirty days unless it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the State Commission, shall be entertained by the National Commission unless the appellant has deposited fifty per cent. of that amount in the manner as may be prescribed.

(2) Save as otherwise expressly provided under this Act or by any other law for the time being in force, an appeal shall lie to the National Commission from any order passed in appeal by any State Commission, if the National Commission is satisfied that the case involves a substantial question of law.

(3) In an appeal involving a question of law, the memorandum of appeal shall precisely state the substantial question of law involved in the appeal.

(4) Where the National Commission is satisfied that a substantial question of law is involved in any case, it shall formulate that question and hear the appeal on that question:

thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the State Commission, shall be entertained by the National Commission unless the appellant has deposited in the prescribed manner fifty per cent. of the amount or rupees thirty-five thousand, whichever is less.



Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the National Commission to hear, for reasons to be recorded in writing, the appeal on any other substantial question of law, if it is satisfied that the case involves such question of law. (5) An appeal may lie to the National Commission under this section from an order passed ex parte by the State Commission.	
58. Jurisdiction of National Commission. (1) Subject to the other provisions of this Act, the National Commission shall have jurisdiction- (a) to entertain- (i) complaints where the value of the goods or services paid as consideration exceeds rupees two crore:... (ii) complaints against unfair contracts, where the value of goods or services paid as consideration exceeds ten crore rupees; (iii) appeals against the orders of any State Commission; (iv) appeals against the orders of the Central Authority; and (b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been	21. Jurisdiction of the National Commission. Subject to the other provisions of this Act, the National Commission jurisdiction- shall have (a) to entertain- (i) complaints where the value of the goods or services and compensation, if any, claimed exceeds rupees one crore; and (ii) appeals against the orders of any State Commission; and (b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so



decided by any State Commission where it appears to the National Commission that such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.	vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.
59. Procedure applicable to National Commission. (1) The provisions relating to complaints under sections 35, 36, 37, 38 and 39 shall, with such modifications as may be considered necessary, be applicable to the disposal of complaints by the National Commission. (2) Without prejudice to sub-section (1), the National Commission may also declare any terms of contract, which is unfair to any consumer to be null and void.	22. Power of and procedure applicable to the National Commission. (1) The provisions of sections 12, 13 and 14 and the rules made thereunder for the disposal of complaints by the District Forum shall, with such modifications as may be considered necessary by the Commission, be applicable to the disposal of disputes by the National Commission.
68. Finality of orders. Every order of a District Commission or the State Commission or the National Commission, as the case may be, shall, if no appeal has been preferred against such order under the provisions of this Act, be final.	24. Finality of orders. Every order of a District Forum, the State Commission or the National Commission shall, if no appeal has been preferred against such order under the provisions of this Act, be final.

As is evident from the above, though the New Act has furthered the cause of consumer protection in the country,



the powers, jurisdiction, procedure and composition of the Dispute Redressal Commissions is mostly para materia to the Old Act. It would not be out of place to mention herein that the New Act does in fact widen the powers of this Hon'ble Commission in as much as Section 51(2) of the New Act confers a new jurisdiction of the a second appeal to this Hon'ble Commission, however the jurisdiction of first appeal and revisional jurisdiction of this Hon'ble Commission under Section 51(1) & 58(1)(b) are identical to Section 19(1) & 21(1)(b) Old Act.

8. At this stage, it may be prudent to discuss the parameters of what constitutes an appeal, second appeal and revision and the interplay thereof.

i. APPEAL

a. An appeal in legal parlance is held to mean the renewal of a cause from an inferior or subordinate to a superior tribunal or forum in order to test and scrutinize the correctness of the impugned decisions. It amounts in essence and pith to a complaint to a higher forum that the decision of the subordinate tribunal is erroneous and therefore liable to be rectified or set aside. ' Colloquially speaking an appeal is the right of entering a superior court and invoking its aid and interposition to redress the error of the court below.

b. Appeal is a substantive right conferred only by way of a statutory provision it is no longer res-integra that there is no limitation of scope of appeal, as an appellate court may venture into the law as well as the facts before the subordinate court.

ii. SECOND APPEAL



a. A second appeal is included in the word 'appeal'.

*Chautala Workers Co-operative Society Ltd
v State of Punjab (AIR 1962 P&H 94)*

*Purohit Swarupnarayan
v. Gopinath (AIR 1953 Raj 137)*

b. While an off-shot of an appeal, the scope of a second appeal is much narrower and can be entertained only if a substantial question of law involved. Substantial question of law means not only substantial question of law of general importance but also substantial question of law arising in the dispute between the parties.

c. It is no longer *res-integra* that a substantial question of law is *sine-qua-non* for the exercise of jurisdiction under second appeal and it cannot be entertained on an erroneousness finding of fact.

d. Generally speaking, the second appellate court cannot reverse the concurrent findings of the lower courts under ordinary circumstances and only if the findings are perverse.

iii. REVISION

a. Revision means the action of revising especially critical or careful examination on perusal with a view to correcting or improving.

b. It is only in cases where the subordinate court has exercised jurisdiction not vested in it by law, or has failed to exercise jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material



irregularity that the revisionary jurisdiction can be properly invoked."

c. The primary object of this section is to prevent the subordinate courts from acting arbitrarily, capriciously and illegally or irregularly in the exercise of their jurisdiction. It clothes the revisionary court with the powers necessary to see that the proceedings of the subordinate courts are conducted in accordance with the law within the bounds of their jurisdiction and in furtherance of justice.

*Shankar Ram Chandra Abhyankar
v Krishnaji Dattatreya Bapat AIR 1970 SC 1*

*Manick Chandra Nandy
v Debdas Nandy, AIR 1986 SC 446*

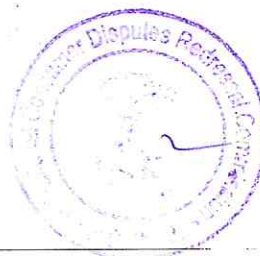
iv. INTERPLAY BETWEEN AN APPEAL AND A REVISION.

a. 'Appeal' and 'Revision' are both creations of a Statute. Appeal is a genus and revision is a species thereof. An appeal covers a wider field. A party can approach a superior Court by way of an appeal on a point of law as well as on facts. The scope of revision is narrower in comparison to an appeal. A party can prefer a revision petition only on the question of law i.e., only in those discerning few cases which have been enumerated.

b. Reliance is placed herein on the Judgment of the Hon'ble Apex Court in Lachhman Dass Vs Santokh Singh, wherein the Hon'ble Apex Court succinctly laid out of the distinction between an Appeal and a Revision as under;



"... The Act, however, under sub-section (6) of Section 15 makes a provision for revision to the High Court against any order passed or proceedings taken under the Act. Thus, the Legislature has provided for a single appeal against the order passed by the Rent Controlling Authority and no further appeal has been provided under the Act. The Legislature has, however, made a provision for discretionary remedy of revision which is indicative of the fact that the Legislature has created two jurisdictions different from each other in scope and content in the form of an appeal and revision. That being so the two jurisdictions-one under an appeal and the other under revision cannot be said to be one and the same but distinct and different in the ambit and scope. Precisely stated, an appeal is a continuation of a suit or proceedings wherein the entire proceedings are again left open for consideration by the appellate authorities which has the power to review the entire evidence subject, of course, to the prescribed statutory limitations. But in the case of revision whatever powers the revisional authority may have, it has no power to reassess and reappreciate the evidence unless the statute expressly confers on it that power. That limitation is implicit in the concept of revision. In this view of the matter we are supported by a decision of this Court in *State of Kerala v. K.M. Charia Abdullah and*



Co. [(1965) 1 SCR 601, 604: AIR 1965 SC 1585].

8. This Court in the case of *Hari Shankar v. Rao Girdhari Lal Chowdhury* [1962 Supp (1) SCR 933 : AIR 1963 SC 698] had an occasion to consider the question of distinction between an appeal and a revision and Hidayatullah, J. (as he then was) speaking for the Court observed at p. 939 of the report as follows: (SCR p. 939)

"The distinction between an appeal and revision is a real one. A right of appeal carries with it a right of rehearing on law as well as fact, unless the statute conferring the right to appeal limits the rehearing in some way as, we find, has been done in second appeals arising under the Code of Civil Procedure. The power to hear a revision is generally given to a superior court so that it may satisfy itself that a particular case has been decided according to law."

1995(4) SCC 201

c. In addition to the above, and in reference to Act, it may be noted that unlike Section 115 of the Code of Civil Procedure ("CPC") the powers of this Hon'ble Commission under Section 58(1)(b) are wider. It may be noted that unlike Section 115 of the CPC, which cover only orders wherefrom no appeal lies, the revisionary powers under the Act have a wider scope wherein this Hon'ble Commission may pass appropriate orders in any consumer dispute which is



pending before or has been decided by any State Commission. Additionally, unlike the restrictions placed upon the revisionary powers of the High Court under Section 115 (2) & (3), CPC are absent from Section 58(1)(b) of the Act.

d. In terms of Section 58(1)(b), the Hon'ble Apex Court in Karnataka Housing Board (Supra) held as under;

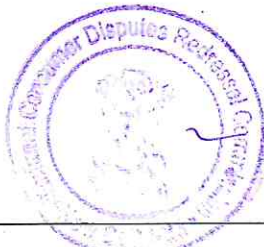
"The National Commission has:

6.1. Original jurisdiction to entertain complaints where the value of goods or services exceeds rupees one crore.

6.3.2. Jurisdiction to entertain appeals against orders of any State Commission.

6.3.3. Supervisory jurisdiction over any State Commission in any "consumer dispute" pending or decided by a State Commission, which is challenged on the ground of lack or excess of jurisdiction.

6.4. The exercise of revisional jurisdiction under Section 21(b) by the National Commission is limited to a consumer dispute which has been filed before the State Commission [Galada Power & Telecommunication Ltd. v. United India Insurance Co. Ltd., (2016) 14 SCC 161; (2017) 2 SCC (Civ) 765]. The jurisdiction under Section 21(b) of the 1986 Act can be exercised by the National Commission only in case of a "consumer dispute" filed before the State Commission. The National Commission in exercise of its supervisory jurisdiction under Section 21(b) is concerned about the correctness or otherwise of the orders passed by the State Commission in a "consumer dispute".



6.5. A revision petition has a narrower scope than an "appeal". In *Sri Raja Lakshmi Dyeing Works v. Rangaswamy Chettiar* [*Sri Raja Lakshmi Dyeing Works v. Rangaswamy Chettiar*, (1980) 4 SCC 259], this Court discussed the distinction between "appellate jurisdiction" and "revisional jurisdiction" as follows: (SCC p. 261, para 2)

"2. "Appeal" and "revision" are expressions of common usage in Indian statute and the distinction between "appellate jurisdiction" and "revisional jurisdiction" is well known though not well defined. Ordinarily, appellate jurisdiction involves a rehearing, as it were, on law as well as fact and is invoked by an aggrieved person. Such jurisdiction may, however, be limited in some way as, for instance has been done in the case of second appeal under the Code of Civil Procedure, and under some Rent Acts in some States. Ordinarily, again, revisional jurisdiction is analogous to a power of superintendence and may sometimes be exercised even without its being invoked by a party. The extent of revisional jurisdiction is defined by the statute conferring such jurisdiction. The conferment of revisional jurisdiction is generally for the purpose of keeping tribunals subordinate to the revising Tribunal within the bounds of their authority to make them act according to law, according to the procedure established by law and according to well defined principles of justice."...



..7.4. During the course of the hearing, the learned counsel for the appellant raised a contention that execution proceedings are a continuation of the "appeal", and must therefore be considered to be a continuation of the "consumer dispute". Reliance in this regard was placed on the decision of the Bombay High Court in *Satguru Construction Co. (P) Ltd. v. Greater Bombay Coop. Bank Ltd.*, and *Raghunath R. Shingate v. Jayant Gajanan Pathak*, as well as the Patna High Court in *Parshava Properties Ltd. v. A.K. Bosell*, wherein it was held that execution proceedings are a continuation of the suit.

7.5. On the other hand, the respondent complainant has placed reliance on a Full Bench of the Andhra Pradesh High Court in *Guntupalli Rama Subbayya v. Guntupalli Rajamma*, wherein it was held that: (SCC Online AP para 11)

"11.... Execution proceedings, in our view, cannot be regarded as continuation of the suit in the sense in which the proceedings in appeal are treated." (emphasis supplied)

7.6. A Full Bench of the Patna High Court in *Narmada Devi v. Ram Nandan Singh*, has similarly held that execution proceedings cannot be regarded as a continuation of the suit.

7.7. We affirm the view taken by the Full Bench of the Andhra Pradesh High Court and the Patna High Court. Execution proceedings



even though they are proceedings in a suit, cannot be considered to be a continuation of the original suit. Execution proceedings are separate and independent proceedings for execution of the decree. The merits of the claim or dispute cannot be considered during execution proceedings. They are independent proceedings initiated by the decree-holder to enforce the decree passed in the substantive"

e. It is well settled that a 'dispute' per se is pending till it attains finality and proceedings arising out of the dispute i.e. Appeal, Second Appeal and Revision are a continuation of the dispute. Reliance herein is placed on the following judgments

i. Karnataka Housing Board v. K.A. Nagamani", the Hon'ble Apex Court clarified that a "consumer dispute" encompasses all proceedings related to adjudication of rights and liabilities under the Consumer Protection Act.

ii. Nanak Chand v. Atma Ram", the Revenue Board, UP held that a revision is also a continuation of the proceedings, it held as under;

"I have considered the arguments of the learned counsels for the parties, and have perused the record of the case. A perusal of the order, written by the trial court shows that it did not apply its mind to the facts and circumstances of the case properly. The land in question was Bhumidhari land, and hence its valuation ought to have been calculated at 70 times of land revenue, but the trial court calculated it at 40 times. It is worthy to note here that rule 159-B of the U.P.Z.A. and L.R. Rules, which provided for preference being given to the parties has since been deleted by the



U.P.Z.A. and L.R. (Seventh Amendment) Rules, 1976. The mere fact that the opposite party had taken dakhla will not affect the fate of the case. A suit filed under Section 176 of the U.P.Z.A. and L.R. Act continues till final decree is prepared and completed. A revision is continuation of the proceedings, which started from the suit. The rights of the parties will be decided according to law which obtains on the date, on which the revision is heard and decided. In the changed circumstances, the holding would be sold amongst the co-tenure holders in accordance with the provisions of rule 160 of the U.P.Z.A. and L.R. Act, as they now stand. It is, therefore, necessary to remand the case to the trial court for fresh decision."

f. As is evinced from the above, not only are the remedies of appeal and revision are a creature of a statute but are also a continuation of the dispute/proceedings.

g. Additionally, Section 683 of the Act provides for finality of the orders passed by the Consumer Dispute Commission and the provision itself stipulates that the orders of the Consumer Dispute Commission shall attain finality, only if no challenge has been preferred. Reliance herein is placed on an observation made by this Hon'ble Commission in the case of Era Realtors Pvt. Ltd. Vs. Neeraj Saxena", wherein this Hon'ble Bench observed that it was only upon the dismissal of the challenge by the Hon'ble Apex Court, did the issue attain finality in terms of Section 68 of the Act, the observation is reproduced hereunder for ease of reference;

"19. The judgment in the case of Nanda Dulal Pradhan (Supra) as relied on by the learned counsel for the Appellant's are not even vaguely applicable on the issue raised in the present appeal. The said case



was with regard to the restoration of a suit under Order 9 Rule 13 of the Civil Procedure Code. In the present case, it is the issue of the right of the appellants to file the written version that stands foreclosed with an ultimate order being passed by the Apex Court arising out of the order dated 04.10.2022. The same has attained finality in terms of Section 68 of the Consumer Protection Act, 2019, consequently, any attempt to reopen the introduction of any material by the appellants does not arise. It is trite law that what cannot be permitted directly cannot be permitted indirectly?"

AIR 2019 SC 2290

1978 SCC OnLine BoR (UP) 11

*68. Finality of orders.-
Every order of a District Commission or
the State Commission or
the National Commission,
as the case may be, shall,
if no appeal has been preferred against
such order under the provisions of this Act, be final.*

2024 SCC OnLine NCDRC 1161

9. In addition to the above, the Petition submits that the doctrine of merger is founded on the rationale that there cannot be more than one operative decree at a given point of time. The doctrine of merger applies irrespective of whether the appellate court has affirmed, modified or reversed the decree of the trial court. The doctrine has been discussed and explained succinctly by the Hon'ble Apex Court in Surinder Pal Soni v. Sohan Lal's.

10. In Kunhayammed v. State of Kerala, (2000) 6 SCC 359, while explaining the doctrine of merger, the Hon'ble Apex Court held thus:



"12. The logic underlying the doctrine of merger is that there cannot be more than one decree or operative orders governing the same subject-matter at a given point of time. When a decree or order passed by an inferior court, tribunal or authority was subjected to a remedy available under the law before a superior forum then, though the decree or order under challenge continues to be effective and binding, nevertheless its finality is put in jeopardy. Once the superior court has disposed of the lis before it either way-whether the decree or order under appeal is set aside or modified or simply confirmed, it is the decree or order of the superior court, tribunal or authority which is the final, binding and operative decree or order wherein merges the decree or order passed by the court, tribunal or the authority below. However, the doctrine is not of universal or unlimited application. The nature of jurisdiction exercised by the superior forum and the content or subject-matter of challenge laid or which could have been laid shall have to be kept in view."

11. Having discussed the life span of a dispute vis-à-vis the Act, the Petitioner herein craves leave of this Hon'ble Commission to further discuss the law as laid down by the Hon'ble Apex Court qua the revisionary powers of this Hon'ble Commission;

i. The Hon'ble Apex Court in the case of *Rajiv Shukla Vs. Gold Rush Sales & Services Ltd*", while discussing the scope and powers of this Hon'ble Commission under Section 21(1)(b) of the Old Act, (para materia to Section 58(1)(b) of the Act) laid down



the manner and parameters within which this Hon'ble Commission is to exercise the said power, the relevant portion of the said Judgment is reproduced hereunder;

"12. At this stage, it is required to be noted that on appreciation of evidence on record the District Forum as well as the State Commission concurrently found that the car delivered was used car. Such findings of facts recorded by the District Forum and the State Commission were not required to be interfered with by the National Commission in exercise of the revisional jurisdiction. It is required to be noted that while passing the impugned judgment and order the National Commission was exercising the revisional jurisdiction vested under Section 21 of the Consumer Protection Act, 1986.

(2020) 15 SCC 771

2022 (9) SCC 31

13. As per Section 21(b) the National Commission shall have jurisdiction to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised its jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity. Thus, the powers of the National Commission are very limited. Only in a



case where it is found that the State Commission has exercised its jurisdiction not vested in it by law, or has failed to exercise the jurisdiction so vested illegally or with material irregularity, the National Commission would be justified in exercising the revisional jurisdiction.

14. In exercising of revisional jurisdiction the National Commission has no jurisdiction to interfere with the concurrent findings recorded by the District Forum and the State Commission which are on appreciation of evidence on record. Therefore, while passing the impugned judgment and order the National Commission has acted beyond the scope and ambit of the revisional jurisdiction conferred under Section 21(b) of the Consumer Protection Act.

ii. Similar finding qua the scope of the revisionary power of this Hon'ble Commission has also been considered and decided in the case of Rubi (Chandra) Dutta Vs. United India Insurance Company Ltd".

iii. Notably, both of the aforementioned judgments deal with the revisionary powers of this Hon'ble Commission and in no manner hold that the revisionary power can only be exercised in an original complaint before a Ld. State Commission. Admittedly both these judgments have been passed against order of a Ld. State Commission in its appellate jurisdiction. Pertinently, neither of the abovementioned judgments have been discussed in the Vivo Judgment and the reliance on the Judgments of the High Court also may be misplaced in as much as the law, by inference, is concededly in suppression of the Judgment of



the Hon'ble Orissa High Court in *Oriental Insurance (Supra)*.

2011(11) SCC 269

12. As has been held by the Hon'ble Apex Court, the powers of this Hon'ble Commission under Section 58(1)(b) of the Act are supervisory in nature and more akin to Article 227 of the Constitution, rather than Section 115 of the CPC, which as elaborated hereinabove, is narrower than Section 58(1)(b) of the Act. In the same vein, it may be necessary to consider, when a the power of revision can be exercised by this Hon'ble Commission under Section 58(1)(b) of the Act.

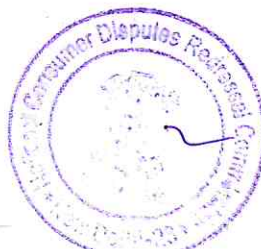
13. Without prejudice to the above, it has been held in a catena of judgments that in the where a statutory appeal is available, a revision shall not be maintainable. This view was also upheld by this Hon'ble Commission in the case of Anand Divine Developers Pvt Ltd V. Sanjeev Kumar Singh, wherein this Hon'ble Commission held as under;

"29. A last attempt was made by the learned Counsel to contend that the revisional power can be exercised by this Commission under Section 58(1)(b) and entertain this appeal as a revision. The aforesaid submission has to be noted for being rejected in as much as once there is an express provision conferred by the statute to entertain an appeal against a final order of the State Commission, the revisional power cannot be invoked to avoid the specific section empowering the Commission to entertain an appeal. Such a course would also open a gateway for litigants even otherwise to file a revision without payment of the statutory deposit which is not the intention of the legislature. The revisional jurisdiction is excluded as



the appellate Forum is available as is evident on the facts of the present case and. it is for the said reason that the Appellant has preferred an appeal. Even otherwise a revision is a limited appeal and therefore by virtue of such conversion the provisions of the appellate jurisdiction of the Commission cannot be made redundant and hence this prayer deserves to be rejected. Learned Counsel insisted that the impugned order suffers from illegality impropriety and material irregularity and therefore the revisional jurisdiction can be invoked. The appellant in the present case is also challenging the findings of fact regarding his absence in the proceedings and the orders recorded by the State Commission in this regard. This cannot be gone into in a revision as the Appellant will have to establish on facts to demonstrate as to on what facts the order passed by the Forum below is erroneous which can only be gone into in an appeal under Section 51.

The argument advanced, if accepted, would be a step-in aid of Forum convenience and opening an option that stands clearly excluded. The appellate and revision al jurisdiction are distinct and separate and therefore no interchangeability can be introduced through interpretation. The specific provision of an appeal cannot be. substituted or avoided given the clear statutory provisions with specific remedies under the Act. This issue is also settled by the Apex Court and no longer Res-Integra. The recent pronouncement on the subject is in the case of Koushik Mutually Aided Cooperative Housing Society Vs. Ameena Begum &



Anr. 2013 SCCOnline SC 1662 where para 18 of the report holds as under:

"18. When there is an express provision available under the CPC or any statute under which an appeal is maintainable, by-passing the same, a Revision Petition cannot be filed. It is needless to observe that in the absence of an appellate remedy, a revision may be maintainable.

31. Consequently, the question of alternative remedy or availability of any other remedy under the 2019 Act does not arise."

14. Admittedly, in the presence of a statutory appeal being available, a revision cannot lie and in terms of the reference answered by this Hon'ble Commission in Oriental Insurance Co. Ltd. V. M/s. Perfect Prints only an appeal is maintainable against an order passed by a Ld. State Commission in its original jurisdiction. This issue has also been upheld by this Hon'ble Commission in ATS Housing Pvt Ltd & Ors. V. Vijay Kumar Nag & ATS Housing Pvt Ltd & Ors. V. Himanshu Kumar Gupta. The relevant portion of the Perfect Prints (Supra) is reproduced hereunder:

"...(v) an appeal under Section 19 read with Section 21(a)(ii) is maintainable before this Commission against an order passed by the State Commission, in exercise of its jurisdiction under Section 17(1)(a)(i) of Act, irrespective of whether it is a final, intermediate or interlocutory order. No Revision Petition against such an order is maintainable;

(vi) no appeal is maintainable against an order passed by the State Commission, in exercise of its



appellate or revisional jurisdiction. However, such an order can be challenged before this Commission, by way of a Revision Petition under Section 21(b) of the Act..."

15. A conjoint reading of the abovementioned dictum of a full bench judgment of this Hon'ble Commission, along with the law laid down in Koushik Mutually Aided Co-operative Housing Society Vs. Ameena Begum & Anr." It can be said that a revision petition may not lie against the orders passed by a Ld. State Commission in its original jurisdiction. Additionally, now with the introduction of a second appeal under Section 51(2) of the Act, a revision can also not be maintained against the orders passed by a Ld. State Commission in its appellate jurisdiction, thus the only situation when a revision can be sustained if an order passed by a Ld. State Commission is assailed passed in its own revisional jurisdiction under Section 47(1)(b). In the humblest submission of the Petitioner herein, this is the most suitable and harmonious reading of the Provision and the act as a whole. If the provision is not read in the manner as proposed herein, the revisionary powers of this Hon'ble Commission would essentially suffer from the Doctrine of Desuetude.

2015 (1) CPR 809

2013 SCCOnline SC 1662

16. In furtherance of the above, it is submitted that the intention of the legislature consists of two things one is the concept of 'meaning' and the other is the 'purpose and object'. The process of construction requires both of them to combine. According to Blackstone, the most fair and rational



method for interpreting a statute is by exploring the intention of the legislature through the most natural and probable signs which are "either the words, the context, the subject-matter, the effects and consequences or the spirit and reason of the law".

17. Additionally, as a general principle of legal and statutory interpretation, it is well settled that the words of the law are the soul of the law, 'verba legis ratio legis est anima'. The principle emphasizes that the spirit and intent of a law, or ratio legis, are crucial, not just the literal words, or verba legis. Brief overview of the Parliamentary debates surrounding the Old Act, would reveal that the framers of the statute had intended for the State Commissions and this Hon'ble Commission to be vested with Appellate as well as Revisionary Powers. Portion of the speech given by then The Minister Of Parliamentary Affairs And Minister Of Food And Civil Supplies, Shri HKL Bhagat is reproduced hereunder for ease of reference;

"To give speedy redressal to consumer complaints, the Bill provides for setting up of Consumer Dispute Redressal Forum in every District, a Commission at the State level and the National Commission at the Centre. The Forum in the District will have Original Jurisdiction to redress complaints upto a claim amount of Rs. one lakh. The State Commission will have original jurisdiction to settle claims upto an amount of Rs. 10 'lakhs. The National Commission can entertain any claim for damages above Rs. 10 lakhs. The State Commission and the National Commission will be vested with appropriate Appellate and Revisionary powers."

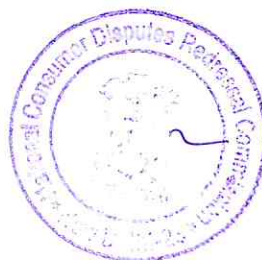


18. *The Petitioner herein craves leave of this Hon'ble Commission to add/alter/amend/supplement the present submissions made and also reiterates that the submissions already made before this Hon'ble Commission during the arguments in the Vivo Judgment are not being repeated herein and would be addressed as, if and when deemed appropriate, with leave of this Hon'ble Commission.*

19. *In view of the above, it is prayed that the present Revision Petition may be entertained and decided on merits, or in the alternative, this Hon'ble Commission may, if deemed appropriate, refer the present issue before a larger bench for consideration.*

8. In addition thereto, the learned Counsel for the Petitioner has also urged that the Performa for filing Revision Petitions also refers to Section 58 (1) (b) of the Act and, therefore, is also an indicator that this Commission has acknowledged that a Revision Petition before this Commission would be maintainable against any Order passed by the State Commission.

9. The contention is that the Order passed by this Commission in the case of *M/s Vivo Mobile India (Supra)* should be referred to a Larger Bench of this Commission for consideration or otherwise the present Revision Petition should be entertained for being heard on merits. In essence the submission is that the case of *M/s Vivo Mobile India (Supra)* has been wrongly decided on an incorrect interpretation of the



provisions of the Consumer Protection Act, 2019 and hence the present Revision Petition would be maintainable as presented.

10. At the outset, it needs to be clarified that the present Petition is captioned as a Revision Petition challenging the Order of the State Consumer Disputes Redressal Commission dated 14.01.2025 that was passed in the exercise of revisional jurisdiction under Section 47(1)(b) of the 2019 Act. The State Commission had passed the Order upholding an Order passed by the District Commission dated 30.05.2024 whereby an application for amendment in the written statement filed by the Petitioner was rejected. The jurisdiction exercised by the State Commission can be located to Section 47(1)(b) of the Act extracted hereunder:

"47. (1) Subject to the other provisions of this Act, the State Commission shall have jurisdiction—

(a)

(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any District Commission within the State, where it appears to the State Commission that such District Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested or has acted in exercise of its jurisdiction illegally or with material irregularity."



11. Learned Counsel for the Petitioner has urged that this Commission has the power to exercise the revisional jurisdiction once again to set right any illegality or material irregularity in the Order passed by the State Commission in a revision arising out of an order of the District Commission. He submits that Section 58(1)(b) empowers this Commission to call for the records and pass any appropriate Orders in any consumer dispute. Section 58(1)(b) is extracted hereinunder:

“58. (1) Subject to the other provisions of this Act, the National Commission shall have jurisdiction—

(a)

(b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.”

12. Learned Counsel emphasizes that the Order rejecting the amendment application by the District Commission is in a Complaint which gave rise to the Revision before the State Commission and is a continuation of the proceedings in the Complaint. Consequently, the exercise of revisional jurisdiction by the State Commission is in a consumer dispute of a Complaint



which is still pending before the District Commission. He therefore urges that the present Revision Petition is maintainable even against an Order of the State Commission passed in exercise of its revisional power under Section 47(1)(b) of the Act which arises out of an Order passed by the District Commission in a pending Complaint, and therefore, if there is any failure to appropriately exercise the revisional jurisdiction by the State Commission, the same would be further revisable by the National Commission under Section 58(1)(b). The submission appears to be that the revisional jurisdiction of this Commission is not confined only against the Orders in original complaint before the State Commission but also against the Orders passed by the State Commission in exercise of its revisional powers against orders of the District Commission. The contention is that the power of this Commission under Section 58(1)(b) is wider than section 115 CPC and is an umbrella of an omnibus supervisory jurisdiction available to this Commission to exercise control through an intervention in the event any Orders are passed where the revisional jurisdiction conferred on the State Commission is exercised illegally or with material irregularity.

13. We have noted all the arguments as well as the written submissions stated hereinabove including the ratio of the three



Member larger bench decision in the case of *Oriental Insurance Co. Ltd. & Anr. Vs. Perfect Prints & Anr.* 2015 SCC OnLine NCDRC 4863.

14. The emphasis in the argument is that the power of the National Commission to exercise revisional jurisdiction under Section 21(b) of the 1986 Act was the same and is identically worded as Section 58(1)(b) of the 2019 Act and therefore the same having been interpreted by larger Bench, the same is binding and could not have been ignored by this Commission while deciding the case of *Vivo Mobile India Pvt. Ltd. (supra)* that has been decided by a two Member Bench. It is urged that the scope of a Revision Petition has already been explained by the Apex Court in the case of *Rajiv Shukla vs. Gold Rush Sales & Services Ltd. and Ors.*, (2022) 9 SCC 31 and later on in the case of *Rubi (Chandra) Dutta Vs. United India Insurance Company Ltd. reported in (2011) 11 SCC 269*. Hence there is no reason for this Commission to denude itself of the powers to exercise the revisional jurisdiction against the Order of the State Commission passed in a revision which has nowhere been prohibited under the Act.

15. It has been once again urged, as in the case of *Vivo Mobile India Pvt. Ltd. (supra)* that the phrase “consumer dispute”



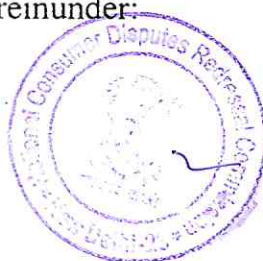
cannot be restricted and compartmentalized only to complaints for the purpose of maintaining a revision separately for the State Commission against an Order of the District Commission and for the National Commission against a Complaint filed before the State Commission. It is urged that this segregation as indicated in the case of *Vivo Mobile India Pvt. Ltd. (supra)* amounts to reading down the provision of Section 58(1)(b) which cannot be done by this Commission and therefore the Order passed in *Vivo Mobile India Pvt. Ltd. (supra)* proceeds on an incorrect footing. Therefore, the other arguments that have been advanced and noted above have also been analysed by us and taken into consideration.

16. It needs to be clarified once again that the present Petition is not a Revision Petition against an Appellate Order passed by the State Commission. We have to state this as the arguments in this case have also been advanced with regard to the observations made by this Commission on this aspect in the case of *Vivo Mobile India Pvt. Ltd. (supra)*. The present Petition is nowhere concerned with the exercise of a revisional power by this Commission against an Appellate Order of the State Commission. To the contrary, the challenge is to the Order of the State Commission passed in exercise of the powers vested for the



exercise of its revisional jurisdiction. Thus any observations made with regard to the maintainability of a revision against the Appellate Order is of no relevance to the present case but since the arguments have been raised intertwining it with the submissions regarding the meaning of the phrase “consumer dispute”, the word “complaint” and the continuity of the proceedings in a pending matter, we may point out that this issue has been answered directly in a separate decision today delivered by us in the case of *HDFC Ergo General Insurance Co. Ltd. vs. Jyoti & Ors. in NC/DN/33/2025*. It has been held that in view of the provisions of Section 51(2) of the 2019 Act, an Appeal against an Appellate Order of the State Commission is maintainable and not a Revision Petition.

17. However, while holding the same, we have once again reiterated our reasoning of the binding effect of the three High Court judgments referred to therein that have dealt with the non-maintainability of a Revision Petition before the National Commission against the orders passed by the State Commission in revision petitions under Section 17(1)(b) of the 1986 Act. Since the reasoning given by us therein is relevant to the arguments raised in the present case as well, we are adopting the same, which is extracted hereinunder:



"40. To commence with the journey to assess the arguments advanced regarding the stated errors and incorrect interpretations in the case of *VIVO Mobile (supra)* we may point out that the interpretation of the word 'complaint' and the phrase 'consumer dispute' was considered by three High Courts. The first is by the Andhra Pradesh High Court in *Megacity Builders Vs. A.P. State Consumer Disputes Redressal Commission & Ors.* AIR 2004 AP 49 and the second is in the case of *R.B. Upadhyay vs. State Commission for Consumer Disputes* reported at AIR 2010 Bom 139 (Bombay High Court). Both these decisions arose out of proceedings for enforcement /execution under Section 25/27 of the Consumer Protection Act, 1986 where it was held that National Commission will not have revisional powers under section 21 (b) of the Consumer Protection Act 1986.

41. It may be pointed out that the judgment of the Andhra Pradesh High Court in the case of *M/s. Megacity Builders (Supra)* arose out of orders passed under Section 27 of the 1986 Act against which an appeal lay under Section 27A. It was held that a Revision would not be maintainable when there is a provision of appeal but while coming to the said finding, the observations made by the Andhra Pradesh High Court were as follows:

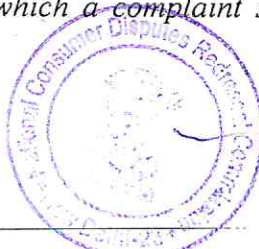
"16. The jurisdiction conferred upon the National Commission is with reference to the consumer dispute either pending before or has been decided by the State Commission. Section 2(e) of the Act defines 'consumer dispute'. It means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint. The expression complaint is defined in Section 2(1)(c) of the Act. It means any allegation in writing made by a



complainant that an unfair trade practice or a restrictive trade practice has been adopted by any trader or service provider etc.

17. That a plain reading of Section 21(b) makes it abundantly clear that the National Commission is vested with the jurisdiction to call for the record and pass appropriate order against any and every order passed by the State Commission in any Consumer Dispute but its jurisdiction is limited to call for the records and pass appropriate orders only in a "consumer dispute" which may be pending before or has been decided by any State Commission.

18. By no stretch of imagination, the order passed by the State Commission disposing of the petition filed by the 2nd respondent herein can be characterized as raising any 'consumer dispute'. The application itself has been filed by the 2nd respondent herein before the State Commission under Section 27 of the Act which deals with the penalties. That Section 27 of the Act deals with the situation where a trader or a person against whom a complaint is made fails or omits to comply with any order made by the District Forum, the State Commission or the National Commission, as the case may be, such trader or person shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years, or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees or with both. The proceedings initiated under Section 27 of the Act cannot be treated as a "complaint" under the provisions of the Act. Section 12 of the Act provides the manner in which a complaint shall be made and such



complaint is in relation to any goods sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided. Such complaints are required to be filed before the District Forum by the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided, or any recognized consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not; or one or more consumers, where there are numerous consumers having the same interest. On receipt of a 'complaint' made under Sub-section (1) of Section 12 of the Act, the District Forum may, by an order, allow the complaint to be proceeded with or rejected. Where a complaint is allowed to be proceeded with under Sub-section (3), the District Forum may proceed with the complaint in the manner provided under the Act. Section 13 of the Act provides the procedure on admission of complaint to be followed by the District Forum. Section 14 deals with the jurisdiction of the District Forum to pass appropriate orders disposing of the complaint.

19. A conspectus and a conjoint reading of the provisions would in unmistakable terms reveal that the proceedings initiated under Section 27 of the Act cannot be equated to that of a "complaint" nor it is equated to that of any 'consumer dispute' within the meaning of Section 27 of the Act. Therefore, no remedy as against the order passed by the State Commission under Section 17(b) of the Act is available. The remedy under Section 21 is not available



against the order passed under Section 17(b) of the Act by the State Commission.”

42. Coming to the decision of the Bombay High Court in the case of *RB Upadhyay (Supra)*, this was yet another case where proceedings under Section 27 of the 1986 Act and the orders passed therein were questioned. The availability of a Revision before the National Commission was once again tested and paragraph 9 and 10 of the said decision are extracted hereinunder:

“9. Before we answer the main questions, we may first deal with the preliminary objection raised on behalf of the respondent No. 2 that as a Revision is available before the National Commission this Court ought not to exercise its extra ordinary jurisdiction. Section 21(b) on which reliance is placed, reads as under:

21. Jurisdiction of the National Commission (b) to call for the records and pass appropriate orders in any consumer dispute which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised a jurisdiction not vested in it by law, or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity

Thus from the clear and literal language of Section 21(b) the revisional jurisdiction can only be it a consumer dispute is pending before or has been decided by the State Commission. In other words the National Commission would have no jurisdiction if the order is passed in exercise of the Appellate power or Revisional jurisdiction exercised by the State



Commission under Section 17(b). The power under Section 21(b) is respect of a complaint filed before the State Commission. In our opinion, therefore, the first contention as urged is devoid of merit

10. The issue, however, raised by the petitioner is one of vital importance, as to whether an interim order passed by the District Consumer Forum can be the subject matter of an application under Section 27 of the Act. Once the State Commission has taken a view, that a view would be binding on the State Commission unless a larger Bench takes a different view. At any rate, in our opinion, considering the importance of the issue, this would be a fit case to exercise our extra ordinary jurisdiction."

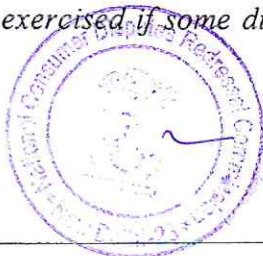
43. It is correct that the aforesaid decisions arose out of orders passed in the enforcement/execution proceedings. We may point out that so far as the judgements of the Andhra Pradesh High Court and the Bombay High Court referred to above, which arose out of Execution Proceedings, now stand impliedly confirmed by the Apex Court in the case of **Karnataka Housing Board K.A. Nagamani** reported in 2019 (6) SCC 424.

44. The third decision came up in the case of **M/s Oriental Bank of Commerce vs. Minarva Dash and Others**, 2015 SCC OnLine Ori 355 in Writ Petition No. 775/2015 decided on 10.09.2015 by the Orissa High Court. This was a case arising out of an Original Complaint and not out of execution or enforcement proceedings but here also the High Court found that the National Commission would not have revisional powers against the order passed by the State Commission in an Appeal. Paragraphs 17 and 23 of the said decision are extracted hereinunder:



"17. Therefore, the order of the State Commission is appealable before the National Commission as per Section 19 of the Act which clearly stipulates that any person aggrieved by any order made by the State Commission in exercise of power conferred on it by sub-clause(i) of clause(a) of Section 17 may prefer an appeal before the National Commission. Sub clause (i) of clause(a) of Section-17 empowers the State Commission to hear original complaints Thus, only the order passed by the learned State Commission while hearing the complaint petition under Section 17(1)(a)(i) is appealable before the National Commission under Section 19 of the Act the revisional power of the National Commission in sub-section (b) of Section 21, which provides that subject to other provisions of the Act, the National Commission shall have jurisdiction to call for the records and pass appropriate order in any consumer dispute, which is pending before or has been decided by any State Commission where it appears to the National Commission that such State Commission has exercised a jurisdiction not vested in it by law or has failed to exercise a jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity. Therefore, the National Commission can exercise revisional power in a consumer dispute case against the order passed in a complaint case, which is pending or finally decided by the State Commission if it suffers from the vices of Section 21(b) of the Act."

"23. In view of the aforesaid facts and circumstances, from the clear and literal language of Section 21(b) of the Act, it can be construed that revisional jurisdiction can only be exercised if some dispute is pending or has



been decided by the State Commission. In other words, the National Commission would have no jurisdiction if the impugned order is passed in exercise of the appellate power or revisional power exercised by the State Commission under Section 17(1)(b). The power under Section 21(b) is in respect of complaint filed before the State Commission. Therefore, "any order" as mentioned in section 27 must include within its sweep not only final orders, but all orders including interim orders, which are also capable of execution under Section 25. Section 27 makes no distinction between an 'order' and "final order" it involves "any order". In that view of the matter, this Court is of the considered opinion that the writ petition is maintainable and issue No. (i) is answered accordingly."

45. There is therefore a fine distinction on facts in the Andhra Pradesh High Court and the Bombay High Court decisions but the interpretation with regard to the phrase "Consumer Dispute" and "Complaint" remains the same as would be evident from the findings recorded therein. As highlighted above, all the three decisions are unanimous on that count. Further it has been held that there is no remedy of revision available before the National Commission under Section 21(b) against an order passed by the State commission under Section 17(1)(b) even though the words used by the Bombay High court after quoting the sections extend it to "exercise of appellate or revisional powers".

46. The decision of the Orissa High Court was rendered after the three Member Bench decision of this Commission in the case of **Oriental Insurance Company (Supra)** and therefore, the same was accepted as a binding precedent by this Commission in the case of **VIVO Mobile (supra)**.



47. We may point out that the definition of the word 'complaint' as contained in Section 2(c) of the 1986 Act and Section 2(6) of the 2019 Act is similar, except for the contents of the meaning of a 'complaint'. The phrase 'consumer dispute' defined in Section 2(1)(e) of the 1986 Act is identical to Section 2(8) of the 2019 Act. **It would be seen from the ratio of the three High Court judgments referred to above that the reasoning is based on the interpretation of the phrase 'consumer dispute' which according to the said decisions means only a 'complaint'.**

48. The submission of the learned Counsel is that the judgment of the Orissa High Court and the other judgments proceed on an incorrect interpretation by confining 'consumer disputes' to mean only a complaint, in as much as, an Appeal is also a continuation of the Complaint and hence a revision against an appellate order would also lie. This argument was not accepted in the case of VIVO Mobile holding that once three High Courts have, after considering the same phrase, explained its impact, **then this tribunal can neither declare the said interpretation to be per incuriam or even otherwise ignore its impact.**

49. We may once again emphasize that this Tribunal cannot ignore the binding impact of the High Court Judgments that have been rendered defining a ratio that is neither obiter nor sub silentio nor do we have the power to hold it per incuriam. The judgments have not omitted to consider the provisions regarding the exercise of revisional powers by the National Commission but were rather directly in issue.

50. We therefore again reiterate the same proposition that it is not within the power of this Commission either by a smaller Bench or by a Larger Bench as suggested by the learned Counsel to give a contradictory interpretation to a phrase or



words of the 2019 statute that are *pari materia* with the 1986 Act, that has already been interpreted and assigned a meaning by three Constitutional High Courts. This reasoning and interpretation of the phrase "Consumer Dispute" and "Complaint" as dealt with by the High Courts has nowhere been reflected in the three Member Bench decision of this Commission in the case of Oriental Insurance Company (*supra*) and even otherwise the judgment of Orissa High Court is a decision rendered thereafter on 10.09.2015. Consequently the High Court judgments would have a binding effect on this Commission. The judgments of the High Courts have neither been overruled nor is there any other High Court judgment or of the Apex Court directly on the aforesaid interpretation regarding the remedy available under the revisional jurisdiction of this Commission."

18. Accordingly, for the purpose as to why we do not find the revisional jurisdiction available against the Order of the State Commission passed in a revision, we reproduce and reaffirm the reasoning given by us in *Vivo Mobile India Pvt. Ltd. (supra)* contained in paragraph 51 to 57, which is extracted hereunder:

"51. The contentions therefore raised by the learned Counsel have already been answered by us by giving our reasons to come to the conclusion that even in a pending complaint before the District Commission, if an order passed by the District Commission is challenged before the State Commission in a revision, then a further revision / second revision before this Commission would not lie as the legislature never intended to confer the revisional



jurisdiction before this Commission against the order of the District Commission.

52. Had the legislature intended otherwise, the power under Section 58(1)(b) of the National Commission could have been provided for against the order of the District Commission as well by mentioning the words "and District" after the word "State" in the Section itself. By not doing so, the legislature does not seem to have directly or indirectly conferred a power of Revision against the order of the District Commission or another revision against a revisional order of the State Commission passed under Section 47 (1) (b). A litigant aggrieved by the order of the State Commission in a revision against the order of a District Commission under Section 47(1) (b) does not seem to have a remedy of a second or further revision against the order of the District Commission indirectly through a revision before the National Commission by questioning the correctness of the revisional order of the State Commission passed against the order of the District Commission.

53. Apart from the above, it is evident that the legislature conferred a supervisory revisional jurisdiction under Section 47(1) (b) exclusively on the State Commission (and not to the National Commission) to pass orders in any "consumer dispute" (which means a complaint) pending or decided by the District Commission.

54. Identically this conferment of a similar jurisdiction is found in Section 58 (1) (b) on the National Commission but "only" against orders passed by the State Commission in a "consumer dispute" (which means a complaint before a State Commission), and not against an order of the District Commission.



55. The legislature therefore has consciously segregated identical revisional powers, but separately against order of the respective lower fora consciously by enunciating the Law on the subject. The Full Bench decision of the Allahabad High Court in the case of *Narsingh Das Vs. Mangal Dubey & Ors.* ILR Vol V 1882 page 163 explaining the jurisprudence of interpreting procedural legislation has already been extracted hereinabove. In the said decision a minority view was taken by Justice Mahmood by holding that unless there is a prohibition of procedure in a Statute, the same should be construed in a manner so as to advance the cause of justice. That was a case regarding the joinder of causes of action against defendants when the plaintiff was seeking different reliefs against the defendants arrayed in the Suit. While interpreting the provisions of the Code, Justice Mahmood held that the rejection of the plaint by the Magistrate on this ground was not correct and the Suit was maintainable for the reliefs jointly prayed for, therein. As against this, the majority view of four out of five Judges, led by Chief Justice Stuart, came to the conclusion that **it is not for the Courts to give a different meaning when the language of the legislation is clear and suffers from no ambiguity.**

56. We may be also well reminded of the age old principle of procedure that if a Statute requires a thing to be performed in a particular manner, then it cannot be done in any other way. Following the said principle as observed above, the statutory provisions do not spell out the conferring of a jurisdiction on the National Commission under Section 58(1)(b) against an order passed in revision by the State Commission under Section 47(1)(b).



57. This conforms to the principle that whatever cannot be permitted directly cannot be permitted to be achieved indirectly by allowing a revised scrutiny of the order of the District Commission once again in a revision before this Commission.

19. The additional arguments which have been advanced by learned Counsel to emphasize the expansive jurisdiction under Section 58(1)(b) of the Act by referring to judgments and drawing a distinction between an Appellate and a Revisional jurisdiction has to be read in context of the objects and reasons as well as the specific provisions made under the Act. Learned Counsel on this issue urged that the then Hon'ble Minister while making a statement explaining the objects and reasons of the Act had also observed that the National Commission will be vested with appropriate appellate and revisionary powers. The word "appropriate" used in the statement by the Hon'ble Minister itself sufficiently explains that the power and jurisdiction conferred are appropriately designed to serve the interest of consumers, but the same cannot be taken to mean that the revisional powers under section 21(b) or 58(1)(b) as they stand today, are overarching and absolute for interfering with any and every Order passed under the Act.

20. We may point out that we have to look to the statutory intent which, in our opinion, is clear and unambiguous and



therefore it does not require striking of any harmony as suggested by learned Counsel. There is therefore no scope for us to explore any further the intention of the legislature by resorting to the statement made by the Hon'ble Minister while introducing the bill. Even otherwise the said statement does not take the argument of the learned Counsel any further reflecting on the exercise of jurisdiction under Section 58(1)(b) beyond what has been given therein as explained above.

“We do not inquire what the legislature meant; we ask only what the statute means.”

(Collected Legal Papers Oliver Wendell Holmes J. – Jackson J. concurring *Schwegmann Bros. vs. Calvert Distillers Corp.*, 341 U.S. 384, 397 (1951)).

21. The arguments of the learned Counsel for the Petitioner seems to be comparing a supervisory jurisdiction possessed by this Commission available to the High Courts under Section 115 CPC or for that matter even under Article 227 of the Constitution of India. Needless to remind that the Commission works under the statute and therefore cannot travel outside the same by resorting to an unacceptable wider interpretation. Learned Counsel has emphasized on the width of the jurisdiction available to this Commission under Section 58(1)(b) of the Act and for that



has also explained the distinction between the jurisdiction of Appeals, Second Appeals and Revisions. There is no dispute with these propagations. We may point out that the jurisprudence of a litigant's right of appeal or right to appeal was considered in the context of Appeals under Article 134 of the Constitution of India by the Apex Court in the case of *Sita Ram & Ors. vs. State of Uttar Pradesh*, (1979) Vol. 2 SCC Page 656. We may reproduce relevant paragraphs as under:

45. *An appeal is a re-hearing, and as Viscount Cave laid down,*

"it was the duty of a Court of appeal in an appeal from a Judge sitting alone to make up its own mind, not disregarding the judgment appealed from and giving special weight to that judgment where the credibility of witnesses comes into question, but with full liberty to draw its own inferences from the facts proved or admitted, and to decide accordingly. [Current Legal Problems, 1958. Vol. II Ed. George W. Keeton & George Schwarzenberger, p. 194] Prof. A.L. Goodhart, dealing with appeals on questions of fact in the English Law, wrote:

"... it may be suggested, with all respect, that when the appellate judges are in agreement with the trial Judge, they take the view that they are bound by his conclusions of fact, but when they disagree with his conclusions then they do not hesitate to overrule them ... if an appellate court has full liberty to draw its own inferences from the facts proved, then appeals on so-called questions of fact will have a far greater chance of success. The most highly trained judges may differ concerning the evaluation of facts, just as ordinary persons may. It is here that conflict of opinion is most frequently found. What is regarded as reasonable by one man, whether Judge or layman, may be regarded as unreasonable by another. If, therefore, an appeal can be taken on the evaluation of facts, then there is always a chance that the appellant may succeed, even though the initial duty of showing



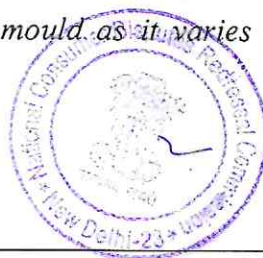
that the judge below was in error may fall on him. [Law Quarterly Review, Vol. 1955, pp. 410-11] "

Ridding ourselves of finer nuances and philosophic speculations and taking a realistic approach to a problem beset with human variables, it is daily experience to see Judges on the high bench differ, and a fortiori so, in the field of sentence. We project this reality in the context of full freedom for the first appellate decider of facts to reach his own finding on offence and sentence, only to highlight how momentous it is — to be or not to be — for the appellant to have his case considered by the highest court when the Constitution and Parliament have conferred a full right of appeal. Summary dismissal, save in glaring cases, may spell grave jeopardy to life-giving justice. That is why Order 21, Rule 15(1)(c), while it survives to weed out worthless appeals, shall remain sheathed in extraordinary cases where facts on guilt or the wider range of considerations on sentence are involved.

41. Going to the basics, an appeal "is the right of entering a superior court and invoking its aid and interposition to redress the error of the court below".... An appeal, strictly so called, is one "in which the question is, whether the order of the court from which the appeal is brought was right on the materials which that court had before it" (per Lord Davey, Ponnammamma v. Arumogam [1905 AC 390]).... A right of appeal, where it exists, is a matter of substance, and not of procedure (Colonial Sugar Refining Co. v. Irving [1905 AC 369] and Newman v. Klausner [(1922) 1 KB 228]) [Stroud : Judicial Dictionary, 3rd Edn. Vol. 1, pp. 160-61] . Thus, the right of appeal is paramount, the procedure for hearing canalises so that extravagant prolixity or abuse of process can be avoided and a fair workability provided. Amputation is not procedure while pruning may be.

42. Of course, procedure is within the Court's power but where it pares down prejudicially the very right, carving the kernel out, it violates the provision creating the right. Appeal is a remedial right and if the remedy is reduced to a husk by procedural excess, the right became a casualty. That cannot be.

25. At the threshold, we have to delineate the amplitude of an appeal, not in abstract terms but in the concrete context of Article 134 read with Article 145 and Order 21 Rule 15 and Section 384 of the Criminal Procedure Code, 1973. The nature of the appeal process cannot be cast in a rigid mould, as it varies with jurisdictions and



systems of jurisprudence. This point has been brought out sharply in "Final Appeal". [*Final Appeal — A Study of the House of Lords in its Judicial Capacity* by Louis Blom — Cooper Qc Clavedon Press, Oxford, 1972 pp. 44-45] The learned authors ask:

"But what does 'appeal' really mean: indeed, is it a meaningful term at all in any universal sense? The word is in fact merely a term of convenient usage, part of a system of linguistic shorthand which accepts the need for a penumbra of uncertainty in order to achieve universal comprehensibility at a very low level of exactitude. Thus, while 'appeal' is a generic term broadly meaningful to all lawyers in describing a feature common to a wide range of legal systems, it would be misleading to impute a precise meaning to the term, or to assume, on the grounds that the word (or its translated equivalent) has international currency, that the concept of an appeal means the same thing in a wide range of systems.

On any orthodox definition, an appeal includes three basic elements: a decision (usually the judgment of a court or the ruling of an administrative body) from which an appeal is made; a person or persons aggrieved by the decision (who is often, though by no means necessarily party to the original proceedings) and a reviewing body ready and willing to entertain the appeal."

The elasticity of the idea is illumined by yet another passage which bears quotation:

" 'Appeals' can be arranged along a continuum of increasingly formalised procedure, ranging from a condemned man in supplication before his tribal chief to something as jurisprudentially sophisticated as appeal by certiorari to the Supreme Court of the United States. Like Aneurin Bevan's elephant, an appeal can only be described when it walks through the court room door.... The nature of a particular appellate process — indeed the character of an entire legal system — depends upon a multiplicity of interrelated (though largely imponderable) factors operating within the system. The structure of the courts; the status and rule (both objectively and subjectively perceived) of Judges and lawyers, the form of law itself — whether, for example it is derived from a code or from judicial precedent modified by statute; the attitude of the courts to the



authority of decided cases; the political and administrative structure of the country concerned — whether for example its internal sovereignty is limited by its allegiance to a colonising power. The list of possible factors is endless, and their weight and function in the social equation defy precise analysis.

In short, we agree in principle with the sum-up of the concept made by the author:

“Appeal, as we have stressed, covers a multitude of jurisprudential ideas. The layman's expectation of an appeal is very often quite different from that of the lawyer and many an aggrieved plaintiff denied his “just” remedy by judge or jury has come upon the disturbing reality that in England a disputed finding of fact can seldom, if ever, form the basis of an appeal. Similarly, a Frenchman accustomed to a narrowly legalistic appeal in cessation, subject to subsequent reargument in a court below, would find little familiarity in the ponderous finality of the judgment of the House of Lords. And a seventeenth-century lawyer accustomed to a painstaking search for trivial mistakes in the court record, which formed the basis of the appeal by writ of error, would be bewildered by the great flexibility and increased sophistication of a jurisprudential argument which characterise a modern appeal.

26. Whatever the protean forms the appellate process may take, the goal is justice so that a disgruntled litigant cannot convert his right of appeal into a bull in a china shop breaking down the court system by sufferance of interminable submissions after several tribunals have screened his case and found it fruitless.

22. As to the distinction between an Appeal and a Revision has been explained by the Apex Court in the case of *M/s. Sri Raja Lakshmi Dyeing Works & Ors. vs. Rangaswamy Chettiar*, (1980) 4 SCC 259, paragraph 2 which is extracted hereinunder:

2. “Appeal” and “revision” are expressions of common usage in Indian statute and the distinction between “appellate jurisdiction” and “revisional jurisdiction” is



well known though not well defined. Ordinarily, appellate jurisdiction involves a rehearing, as it were, on law as well as fact and is invoked by an aggrieved person. Such jurisdiction may, however, be limited in some way as, for instance has been done in the case of second appeal under the Code of Civil Procedure, and under some Rent Acts in some States. Ordinarily, again, revisional jurisdiction is analogous to a power of superintendence and may sometimes be exercised even without its being invoked by a party. The extent of revisional jurisdiction is defined by the statute conferring such jurisdiction. The conferment of revisional jurisdiction is generally for the purpose of keeping tribunals subordinate to the revising Tribunal within the bounds of their authority to make them act according to law, according to the procedure established by law and according to well defined principles of justice. Revisional jurisdiction as ordinarily understood with reference to our statutes is always included in appellate jurisdiction but not vice versa. These are general observations. The question of the extent of appellate or revisional jurisdiction has to be considered in each case with reference to the language employed by the statute.

23. There is therefore no dispute about the existence or the scope of the powers to be exercised in a revisional jurisdiction. The present is a case where the exercise of such power is controlled by the statute to be invoked at different layers for the purpose which has been ordained in the statute. The judgment of the Apex Court has also gainfully made observation in paragraph 56 entering a caution in the case of **Sita Ram & Ors. (supra)** to



be exercised regarding multi layers of adjudicatory processes. This is by way of reference to understand the working of the statutory provisions in the present case and the intent of the statute as explained by us hereinabove. Paragraph 56 is extracted hereinunder:

"56. Before we part with this case, it is right to register our view that too many appeals and revisions are a bane of the Indian Judicial System, involving as it does sterile expense and delay and fruitless chase of perfection. The Evershed Committee, a quarter of a century ago, expressed dissatisfaction with the system of multiple appeals what with the social cost of litigative prolongation, burden of precedents and heavy outlay — a luxury which a Third World country can ill-afford. Too many appeals are counter-productive as A.P. Herbert in 'Uncommon Law' has wittily driven home:

"The people may be taught to believe in one Court of appeal; but where there are two they cannot be blamed if they believe in neither. When a man keeps two clocks which tell the time differently, his fellows will receive with suspicion his weightiest pronouncements upon the hour of the day, even if one of them happens to be right."

Way back in 1832 it has been pointed out that:

"The only ground upon which a suitor ought to be allowed to bring the judgment of one court for examination before the members of another is the certainty or extreme probability of finding in the latter tribunal more wisdom and learning, more maturity of deliberation, and a greater capacity of sound decisions



than existed in the court from which the appeal is to proceed. But as every appeal is of necessity attended with the two great and positive evils of expense and delay, it is the bounden duty of every wise and good Government to take all possible care that the Court of appellate jurisdiction shall possess those advantages, and that superior capacity for wise and impartial adjudication, upon the presumption of possessing which, the public support and the confidence of individual suitors is given to the institution. [3rd Edn., 1927 p. 259]

What is important is the choice of mature minds for dispensation of justice according to law and not wasteful multiplication of hierarchical tribunals."

24. Learned Counsel for the Petitioner may be correct in his submission that an Appeal is a continuation of a Complaint and even otherwise in the present case, the Complaint is still pending and is yet to be finally decided and therefore, the proceedings in the Complaint have not terminated as yet. As urged by learned Counsel himself, this aspect has been categorically explained by the Apex Court in the case of Karnataka Housing Society vs. K.A. Nagamani (supra), where it has been held that enforcement / execution proceedings are distinct and are separate proceedings after the complaint has been decided and therefore a revision arising out of an Order passed in the execution proceedings would not be maintainable.



25. The necessary inference that can be drawn is that a revision would be maintainable against an Order passed in a pending complaint which has in the present case been availed of by the Petitioner before the State Commission. There is no concurrent jurisdiction available to the National Commission for a revision to be entertained against the Order of the District Commission.

26. The question which tell for consideration before us and has been examined is something different as reasoned out above namely whether an aggrieved person will have a right to invoke the revisional jurisdiction once again before this Commission under Section 58(1)(b) of the Act. We may point out that Section 58(1)(b) opens with the words "subject to the other provisions of this Act". As explained above, the State Commission has the power under Section 47(1)(b) to exercise its revisional jurisdiction against an Order of the District Commission in a pending or a decided complaint. As already held in the case of *Vivo Mobile India Pvt. Ltd. (supra)*, there is no power with the National Commission under Section 58(1)(b) to exercise revisional jurisdiction against an Order of the District Commission in a pending complaint.



27. Similarly, Section 47(1)(b) also opens with the words “subject to the other provisions of this Act”. This therefore clarifies the two distinct and separate revisional jurisdictions conferred on the National Commission and the State Commission and hence there is no scope for a revision against a revisional Order of the State Commission. The arguments raised about the width of this jurisdiction being wider than Section 115 of CPC or even akin to article 227 of the Constitution is untenable for obvious reasons of a different statutory structure under Section 58(1)(b) and Section 47(1)(b) of 2019 Act.

28. Once again, the argument of rendering the provisions of Section 58(1)(b) otiose or suffering from Desuetude has been raised. We do not find any substance in the said arguments and therefore we reiterate the position as explained in the case of *Vivo Mobile India Pvt. Ltd. (supra)*. As noted above, the revisional jurisdiction would be available separately against an Order in a complaint by the District Commission before the State Commission under Section 47(1)(b). Similarly against an Order by the State Commission in a pending complaint, any Order that is revisable shall be subject to a remedy under Section 58(1)(b) of the 2019 Act. The argument that the provisions would become otiose are therefore unfounded. There cannot be an implicit



jurisdiction when explicit recitals define the boundaries of the revisional jurisdiction of the National Commission and the State Commission separately. This does not amount to reading down the text. The provision under Section 58(1)(b) is not an additional revisional spring board against the Order of a District Commission already subjected to a revision under Section 47(1)(b) of the Act.

29. We may further point that the limitations on the jurisdictions of the Commission were discussed broadly by the Apex Court in the case of *Ibrat Faizan Vs. Omaxe Buildhome Pvt. Ltd.* 2022 SCC OnLine SC 620 and *Universal Sompo General Insurance Co. Ltd. Vs. Suresh Chand Jain & Anr.* 2023 SCC OnLine SC 877 and it was held that in the absence of any remedy under the Act, the jurisdictional High Court will have the power to exercise supervisory jurisdiction in such matters under the Article 227 of the Constitution.

30. There is another aspect which needs to be pointed out namely that when the decision in the case of *Oriental Insurance Co. Ltd. vs. M/s. Perfect Prints (supra)* was delivered, the 1986 statute had only the remedy of one appeal before the State Commission against an Order of the District Commission and therefore the revisional power under Section 21(b) was



interpreted to be available against an Appellate Order of the State Commission by an aggrieved person. The additional provision of an Appeal under Section 51(2) of the Act therefore was not a subject matter of consideration before the larger Bench of three Member in the case of *Oriental Insurance Co. Ltd. vs. Perfect Prints (supra)* nor does it travel further to deal with issues as have been analysed in *Vivo's* case or hereinunder upon a consideration of the judgments of the 3 High Courts as pointed out above.

31. The contention that this Commission has ignored the binding effect of the judgment in the case of *in Oriental Insurance Co. Ltd. V. M/s. Perfect Prints (supra)* is also of no substance as the judgment of the Orrissa High Court in the case of *Oriental Bank of Commerce vs. Minarva Dash & Ors. (supra)* holds the field and even otherwise the judgment in the case of *Oriental Insurance Company vs. Perfect Prints (supra)* was not considering the issue of a revisional jurisdiction being exercised by this Commission against the revisional Order passed by the State Commission in a pending complaint.

32. Secondly the ratio of that decision was confined to the then existing statutory provisions and the reference was answered in that context only. The reasoning of the decision in the case of



Oriental Insurance Co. Ltd. vs. Perfect Prints (supra) cannot dilute or oust the impact of the three High Court decisions already stated and extracted hereinabove. Consequently, the said larger Bench decision had not dealt with any such situation as presently involved and therefore the contention that it will continue to have a binding effect is misplaced merely because the wordings of the power of revisional jurisdiction under Section 21(b) of the 1986 Act and 58(1)(b) of the 2019 Act are similar. Even if the said provisions are **ipsissima verba** (in the very same words, identically worded) yet as explained above they are stationed to cater to revisional remedies at separate levels as explained above. This similarity therefore in no way leads to an inference that the National Commission still continues to have an overall expansive power to entertain a revision against any and every Order of the fora below unlike Article 227 of the Constitution of India.

33. Another argument was advanced with regard to the form which is to be filled up for the purpose of e-filing before this Commission. We cannot subscribe to this argument to define the statutory provisions. A form is only to facilitate the filing and it does not define jurisdiction. The argument therefore deserves rejection.



34. There is one more information which needs to be placed on record namely that the decision in the case of Vivo Mobile (supra) is stated to have been challenged before the High Court of Telangana where the only order passed is to the following effect.

"DATED:19.02.2025

ORDER

I.A.No.1 of 2025

Dispensed with for the present.

W.P.No.4942 of 2025

Notice before admission.

Learned counsel for the petitioner is permitted to take out personal notice to the respondents through RPAD and file proof of service.

Post on 05.03.2025."

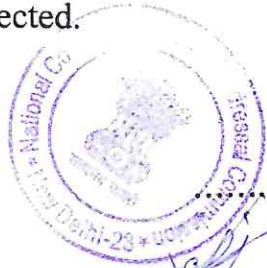
35. There is therefore no substance in the attempted fresh arguments advanced by learned Counsel for the Petitioner.

36. The present Revision Petition therefore is not maintainable and is dismissed for all the reasons stated hereinabove.

37. The arguments which have been noted and answered by us hereinabove also cover the prayer for referring the decision in the case of *Vivo Mobile India Pvt Ltd. (supra)* to a larger Bench. There is neither any novel argument nor any plausible or applicable legal reasoning to persuade us and invite a split verdict against the earlier Order in *Vivo Mobile India Pvt Ltd.*



(*supra*) as in our opinion there is neither any legal flaw or scope for a different interpretation so as to disagree with our earlier view and refer the matter to a larger Bench. This prayer is also therefore rejected.



Sd/-

(A.P. SAHI, J.)
PRESIDENT

Sd/-

(BHARATKUMAR PANDYA)
MEMBER



Pankaj / Pramod / Reserved

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16/05/2025
16/05/2025

