

**IN THE NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
AT NEW DELHI**

**JUDGMENT RESERVED ON : 03.08.2026
JUDGEMENT PRONOUNCED ON: 31.08.2026**

FIRST APPEAL NO. 864 OF 2022

(Against the order dated 18.08.2022 in Complaint no. 203/2019 of the State
Consumer Disputes Redressal Commission Gujarat)

with

IA/10761/2022 (C/delay)

Dasrathbhai Manilal Patel

... Appellant

Versus

HDFC Bank Ltd

... Respondent

FIRST APPEAL NO. 1015 OF 2022

(Against the order dated 18.08.2022 in Complaint no. 202/2019 of the State
Consumer Disputes Redressal Commission Gujarat)

with

IA/12422-12424/2022 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)

Babubhai Keshavlal Patel

... Appellant

Versus

HDFC Bank Ltd

... Respondent

FIRST APPEAL NO. 1016 OF 2022

(Against the order dated 18.08.2022 in Complaint no. 204/2019 of the State
Consumer Disputes Redressal Commission Gujarat)

with

IA/12425-27/2022 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)

Punjabhai Keshavdas Patel

... Appellant

Versus

HDFC Bank Ltd

... Respondent

FIRST APPEAL NO. 1017 OF 2022

(Against the order dated 18.08.2022 in Complaint no. 205/2019 of the State
Consumer Disputes Redressal Commission Gujarat)

with

IA/12428-12430/2022 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)

Babubhai Randas Patel

... Appellant

Versus

HDFC Bank Ltd

... Respondent

FIRST APPEAL NO. 1018 OF 2022

(Against the order dated 18.08.2022 in Complaint no. 229/2019 of the State
Consumer Disputes Redressal Commission Gujarat)

with

IA/12431-12433/2022 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)
Babubhai Somabhai Patel ... Appellant
Versus
HDFC Bank Ltd ... Respondent

FIRST APPEAL NO. 1019 OF 2022

(Against the order dated 18.08.2022 in Complaint no. 230/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with

IA/12434-12436/2022 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)

Kiranji Ramaji Thakor ... Appellant
Versus
HDFC Bank Ltd ... Respondent

FIRST APPEAL NO. 1020 OF 2022

(Against the order dated 18.08.2022 in Complaint no. 231/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with

IA/12437-12439/2022 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)

Soamji Ramaji Thakor ... Appellant
Versus
HDFC Bank Ltd ... Respondent

FIRST APPEAL NO. 1021 OF 2022

(Against the order dated 18.08.2022 in Complaint no. 232/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with

IA/12440-12442/2022 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)

Zamirbhai Baubhai Patel ... Appellant
Versus
HDFC Bank Ltd ... Respondent

FIRST APPEAL NO. 1022 OF 2022

(Against the order dated 18.08.2022 in Complaint no. 233/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with

IA/12443-12445/2022 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)

Vaghjibhai Zabarsang Parmar ... Appellant
Versus
HDFC Bank Ltd ... Respondent

FIRST APPEAL NO. 1023 OF 2022

(Against the order dated 18.08.2022 in Complaint no. 235/2019 of the State
Consumer Disputes Redressal Commission Gujarat)

with
IA/12446-12448/2022, IA/9929/2024, IA/2403/2024, IA/13915/2024 (Exemption for
filing official translation, C/delay, exemption to file typed copies of documents,
placing addl. Documents, additional fact, placing addl. documents)

Manishkumar Ashokbhai Patel	...	Appellant
Versus		
HDFC Bank Ltd	...	Respondent

FIRST APPEAL NO. 305 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 192/2019 of the State
Consumer Disputes Redressal Commission Gujarat)

with		
IA/3219-3221/2023 (Exemption for filing official translation, C/delay, exemption to file typed copies of documents)		
Meruji Vihaji Thakor	...	Appellant
Versus		
DCB Bank Ltd	...	Respondent

FIRST APPEAL NO. 306 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 194/2019 of the State
Consumer Disputes Redressal Commission Gujarat)

with		
IA/3222-3224/2023 (Exemption for filing official translation, C/delay, exemption to file typed copies of documents)		
Dilip Chanduji Thakor	...	Appellant
Versus		
DCB Bank Ltd	...	Respondent

FIRST APPEAL NO. 307 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 206/2019 of the State
Consumer Disputes Redressal Commission Gujarat)

with		
IA/3225-3227/2023 (Exemption for filing official translation, C/delay, exemption to file typed copies of documents)		
Babubhai Keshavlal Patel	...	Appellant
Versus		
DCB Bank Ltd	...	Respondent

FIRST APPEAL NO. 308 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 207/2019 of the State
Consumer Disputes Redressal Commission Gujarat)

with		
IA/3228-3230/2023 (Exemption for filing official translation, C/delay, exemption to file typed copies of documents)		
Karshanji Jiluji Zala	...	Appellant
Versus		
DCB Bank Ltd	...	Respondent

FIRST APPEAL NO. 309 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 209/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with
IA/3231-3233/2023 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)
Punjabhai Keshavdas Patel ... Appellant
Versus
DCB Bank Ltd ... Respondent

FIRST APPEAL NO. 310 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 210/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with
IA/3234-3236/2023 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)
Pareshhai Anilbhai Patel ... Appellant
Versus
DCB Bank Ltd ... Respondent

FIRST APPEAL NO. 311 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 211/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with
IA/3237-3239/2023 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)
Dashrath Ramsang Vaghela ... Appellant
Versus
DCB Bank Ltd ... Respondent

FIRST APPEAL NO. 312 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 212/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with
IA/3240-3242/2023 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)
Dineshbhai Madhavdas Patel ... Appellant
Versus
DCB Bank Ltd ... Respondent

FIRST APPEAL NO. 313 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 216/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with
IA/3243-3245/2023 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)
Jitendra RamsangVaghela ... Appellant
Versus
DCB Bank Ltd ... Respondent

FIRST APPEAL NO. 314 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 217/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with
IA/3246-3248/2023 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)
Hiren Jayntibhai Patel ... Appellant
Versus
DCB Bank Ltd ... Respondent

FIRST APPEAL NO. 315 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 218/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with
IA/3249-3251/2023 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)
Ganpatbhai Somabhai Patel ... Appellant
Versus
DCB Bank Ltd ... Respondent

FIRST APPEAL NO. 316 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 220/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with
IA/3252-3254/2023 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)
Mahipatsinh Jaguji Darbar ... Appellant
Versus
DCB Bank Ltd ... Respondent

FIRST APPEAL NO. 317 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 221/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with
IA/3255-3257/2023 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)
Babubhai Somabhai Patel ... Appellant
Versus
DCB Bank Ltd ... Respondent

FIRST APPEAL NO. 318 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 222/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with
IA/3258-3260/2023 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)
Natvarsang Hemantsang Vaghela ... Appellant
Versus
DCB Bank Ltd ... Respondent

FIRST APPEAL NO. 319 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 223/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with
IA/3261-3263/2023 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)
Babubhai Ramdas Patel ... Appellant
Versus
DCB Bank Ltd ... Respondent

FIRST APPEAL NO. 320 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 224/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with
IA/32364-3266/2023 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)
Zamuben Jeramdas Patel ... Appellant
Versus
DCB Bank Ltd ... Respondent

FIRST APPEAL NO. 321 OF 2023

(Against the order dated 18.08.2022 in Complaint no. 225/2019 of the State
Consumer Disputes Redressal Commission Gujarat)
with
IA/3267-3269/2023 (Exemption for filing official translation,
C/delay, exemption to file typed copies of documents)
Pravinbhai Parshotambhai Patel ... Appellant
Versus
DCB Bank Ltd ... Respondent

BEFORE:

HON'BLE MR. JUSTICE A.P. SAHI, PRESIDENT
HON'BLE MR. BHARATKUMAR PANDYA, MEMBER

For the Appellants : Mr. N.C. Thakkar, A.R.
For the Respondents : Mr. Kunal Tandon, Sr. Advocate with
Ms. Niti Jain, Mr. Nitia Agarwal, Advocates
For HDFC Bank
Mr. Bhavin N. Daftary, Advocate for DCB Bank Ltd.

ORDER

PER BHARATKUMAR PANDYA, MEMBER

1. This bunch of appeal involve the only issue of maintainability of the complaint. The State Commission dismissed the separate complaints filed by the appellants on the preliminary ground of maintainability. These appeals involve two different Banks as respondents, though the relevant facts and issues are same and the State

Commission has also passed the similar orders in each case. Relevant portion of the order dated 18.08.2022 passed by the State Commission is reproduced below:

Evidence as to whether the act was done with intention must also be brought on record and criminal investigation is also important in this type of transaction that have taken place . So that when there are related business transactions, it should be admitted to be a commercial transaction, which ultimately aims to make a profit for the person, to decide the issue, the transactions that have taken place between the bank and the plaintiff can be established by taking conclusive evidence.

9. On behalf of the plaintiff, his representative Mr. Navinchandra Thakkar submitted that HDFC Bank . Has not raised any dispute regarding the maintainability of this complaint and DCB Bank. Has taken this issue as a primary issue. So that a legal notice has been given by the plaintiff to obtain the necessary documents from the bank. No reply has been given to that notice and in the circumstances when the plaintiff takes banking services for self employment and as per the agreement of the bank the stock for the loan is placed in the godown and among the goods in question as advertised by the bank.

page 8 to 15.

But fewer items are advertised for auction at lower prices. No such procedure was communicated to the complainant by the bank. HDFC Bank has filed civil proceedings regarding the loan transaction of the plaintiff. Complained by the bank. DCB Bank has not filed any legal proceedings to recover any such loan. Disputed goods means stocked goods sold at lower weight, lower amount. This act is done by the bank with the intention of fraud.

9. In view of this fact, in view of Section 2 (1)(d) of the Consumer Protection Act, when the complaint has been filed by the plaintiff under the Consumer Protection, after regarding the statements of the plaintiff and the counter statements as a whole, the plaintiff has the right to seek relief before the Consumer Court in cases where the transactions are for personal livelihood.

10. In this case, complainant wants to recover his own money after sell of his own goods and kept sold them in stock

page 9 to 15.

A loan of 75 percent of the stock is given to the plaintiff by the bank, so according to the statement of the plaintiff, the goods in excess of the loan amount were with the bank and which were handed over by the bank to the Collateral Management Services Ltd. agency. The goods have been reduced from collateral agency, the complainant, the amount for which the goods in question were deposited to the bank is the amount owned by the complainant. So this complaint is maintainable here.

11. Mr. Navinchandra Thakkar, representative of the plaintiff referred before me to The warehousing (Development and Regulation) Act, 2007. It is further submitted that if any were stolen from the godown, the bank has to recover money from collateral agency as per section-6 of Warehousing (development and Regulation) Act, 2007, but bank cannot recover such amount from the complainant. It is the submission of the learned representative of the complainant that, at the time of filing of the complaint, the issue of jurisdiction was decided.

page 10 to 15.

Such issue cannot be decided after the complaint is filed. If this whole submission is kept central, one thing clearly emerges that, considering the statement of the plaintiff i.e. Pleadings, one thing is clear as per our humble opinion, that the amount of goods which has been mortgaged with the bank and the loan obtained is for commercial purpose. The purpose is to make profit by doing transaction. Is the end the whole transaction is done for commercial purpose which is activity which is done to earn profit.

12. Further, the amount shown in the stock and price is understand in the stock and price at the time of placing the goods in dispute with intention of fraud to cause loss to the complainant and by doing so with intention to cause loss to the complaint. Because, the bank has not given any information about selling the goods to the plaintiff. So that in such circumstances as per the decision of the humble Supreme Court as discussed above it is clearly accepted that the relationship of the plaintiff and the bank is of a commercial nature.

page 11 to 15.

can be Because, if the details of the amount and quantity of the loan are large, then personal replenishment cannot be called a family transaction but clearly a commercial transaction. Circumscribing these two points, it is also clear that the plaintiff has primarily sought a relief from the bank to recover the amount for the loss caused him.

13. In our humble opinion civil court is a competent court to collect evidence regarding the bank's dealings even though goods and collateral management agency, if necessary, from forensic expert, if necessary, for recovery of Money.

14. According to the provisions of the Consumer Protection Act, the liability between the complainant and the defendant can be determined through summary evidence and the Consumer Commission can decide the case of the complainant on merits and demerits by taking such evidence on record through affidavit. So that in our humble opinion the banks have shown malfeasance and negligence in their services and have done so.

page 12 to 15.

Two things are important for the allegation that there is a defect in the transactions, namely, when the complaint alleges that the goods of the complainant have been transferred because the bank official and the agency officials wanted to defraud the complainant in dealings with the complainant bank in such a way that the complainant would suffer a loss, the criminal investigation complaint specifically. It is essential for merits and demerits and such circumstances when large scale fraud is involved in the complaint, such evidence cannot be evaluated only in summary proceedings and the decision of such complaint by the consumer Commission should not be fully decided by summary proceedings and so that the complainant has to file his complaint both the circumstances which we have discussed above, the complaint should go before the appropriate commission or court after extensive and through evaluation of all the evidence.

15. According to the complainant, the bank did not follow the proper procedure and the goods were sold and finally the goods of the complainant were not properly transported and yielded less amount and

page 13 to 15.

If this action is taken without the prior knowledge of the plaintiff, if the plaintiff has given notice to the opposite bank even to obtain the documents, if those documents are not provided, when the action is taken on merits and demerits under the civil proceedings or the decision which he opinion, an application before the Civil Court is necessary. So that in the same way, when we consider the circumstances that such disputes cannot go before the consumer court when the loan is for commercial transaction in the plaint, one thing becomes clear that the plaint must appeal before the appropriate civil court on the merits and demerits of his plaint. Therefore the following final order is made.

order

In this case complaint No. 19/218 is disposed .

page 14 to 15.

1. The complainant can seek relief before the appropriate commission or before the civil court. A plaintiff may file such a suit before a civil court which will not be barred by the provision of limitation.

2. No Order as to costs is made in this complaint.

copy of this order to be sent to the parties free of charge.

Today Order announced on 13/8/2022.

2. The facts substantially narrated in the orders that have been passed by this Commission are reproduced below:

29.04.2025

1. Heard extensively the learned Authorised Representative for the appellants in this group of appeals, Mr. Navinchandra Thakkar and Mr. Kunal Tandon, Sr. Advocate.

2. There is delay of 38 days reported by the office in filing this appeal. Having perused the respective applications for condonation and having heard the Id. AR Senior Counsel Mr. Tandon, we are of the opinion that there is sufficient cause duly explained by the appellants and therefore the delay stands condoned and the respective IAs are consigned, appeals are admitted and are proceeded with.

3. These appeals admittedly involve similar facts and similar allegations, and all the complaints from which these appeal arise have been dismissed by the SCDRC on similar grounds by holding that (i) the complaint involves respective allegations of fraud by the parties, for which the opposite parties have initiated criminal proceedings against several individuals, and the respective allegation and cannot and should not be decided in a summary proceedings (ii) That the record does not indicates that the pledged goods are the agricultural produce of the complainants themselves and that the complainants are involved in commercial activity and further that the relevant transaction with the OP Banks, of obtaining a loan against pledge of agricultural produce, regarding which the allegations of deficiency in service have been levelled against the OP Banks, is entered into as a part of commercial activity of trading. Obtaining loan for commercial activity of trading is thus a commercial transaction and therefore, the complainants are not "consumers" as defined in section 2(1)(d) of the CP Act. The Ld. Gujarat State Consumer Disputes Redressal Commission (SCDRC) has passed separate orders in each complaint.

4. Mr. Thakker, the Ld. AR, has, explaining the facts, referred to the records of FA/864/2022 and firstly took us through the Statement of Objects and Purpose and the relevant provisions of The Warehousing (Development and Regulation) Act, 2007 to contend that the said Act is for the benefit of farmers by providing for the enhanced negotiability and fiduciary trust of Banks and Depositors in the Warehousing Receipts and to repel the fear of loss to Banks or the Depositors due to fraud and mismanagement by the Warehousemen. It also aims to promote liquidity in rural markets. Our attention is also drawn to sections 6 and 7 of the said Act to underline the absolute liability of the warehousemen for the loss or injury to the warehoused goods due to negligence and his duty to deliver goods to the holder of the Warehousing Receipt. With this backdrop, it is stated that the appellants are agriculturists and had applied for "loan against warehouse receipt" on 06.02.2017 from OP Bank and amount of loan of Rs. 48 lacs (approx.) was received on 27.02.2017 (pg 137). The agricultural produce (cumin seeds) was stored in Siddhi Vinayak Cold Storage (SVCS) (A warehouse) on 24.02.2007, which was duly verified by the Officers of the OP Bank and of M/s National Collateral Management

Services Limited (NCML) with whom the OP Banks had entered into comprehensive "Collateral Management Agreement" (CMA) as is clear from the certificate of deposit of agriculture produce and verification dated 27.02.2017 on page 121 of the file, and continued to be so verified subsequently from time to time. Such deposited goods were pledged as security for Loan by way of depositing the warehouse receipt issued by SVCS. It is further explained that the loan was for a period of one year. However, before completion of one year, the appellant made part payment of the loan and got part of the pledged goods released. The balance goods kept lying in the said godown, pledged with the OP bank and under the care, custody and control of NCML. Thereafter, it was learnt by the appellant that two of the farmers, namely Umedji Nagarji Thakor and Bhupantji Manaji Thakor, despite having made the repayment of the loan, were not returned the balance quantity of the goods lying in the godown which was with the Bank through custody and control of NCML though demanded by them. Therefore, the appellant did not make any further payment of outstanding loan amount. It is the allegation that the OP bank demanded the outstanding dues, which when not paid due to such reasons, resulted into further action of sale of the pledged goods, which further resulted into realization of lesser amount due to negligence of the OP bank in fixing the floor price and in ensuring that the full quantity of the pledged goods was preserved by their service provider NCML. The OP bank issued demand notice and initiated proceedings before the Debt Recovery Tribunal for the balance loan outstanding amount while the complainant instituted the complaint alleging negligence of the OP in safeguarding the pledged goods and deficiency in service and prayed for damages. The State Commission rejected the complaint on grounds of maintainability. Referring to page 4 to 24 of the additional documents filed under IA No. 2403 of 2024 filed on 09.02.2024, being the CMA between the NCML and HDFC Bank, and para 5 of the HDFC bank's affidavit dated 29.11.2023 submitted before Debt Recovery Tribunal-I, Ahmedabad in original application no. 299 of 2021 filed by the respondent, it has been pointed out by Mr. Thakkar that there is an agreement between the HDFC bank and the NCML whereunder the obligations of the service provider NCML have been categorically defined and it is provided that the service provider NCML shall be liable for any loss or damage occurring to the goods under custody and control of NCML and pledged with the bank during the currency of the loan. The scope of the work has been detailed in appendix II. As provided in article VIII, the collateral Manager (CM, i.e. NCML) shall at its sole cost and expenses obtain a fidelity and professional indemnity coverage for its officers and employees. Article X provides for unconditional indemnification of the bank at all times in respect of any loss, damage, claims, etc. which the bank may incur or any loss or damage occasioned to the bank on account of damage, destruction or loss of goods arising directly as a consequence of negligence or defaults, etc. on the part of the NCML or its officers. It has further been pointed out on page 25 to 27 of the additional documents, being copy of the letter addressed by HDFC bank to NCML, that there has presumably been acts of commission and omission on the part of the employees of NCML as a consequence of which, a consolidated amount of Rs.5,25,99,306/- has been offered by NCML to HDFC bank with regard to the pledged goods under the custody of NCML under CMA and respective related loans advanced to 25 borrowers including the appellant Manish Kumar whose name appears in Schedule I to the said letter. This clearly implies that the amount of indemnification for the loss of pledged goods to the extent of Rs.33,09,862/- in terms of CMA has already been received by the respondent but still it has not been purposefully and wrongfully adjusted against the alleged outstandings of the appellant. The appellant has further drawn our attention to the decisions from page number 28 onwards of the additional documents filed on 9.2.2024 to contend that the transaction of borrowal and pledging of the agricultural produce entered into by the appellant with the HDFC bank is a transaction of obtaining financial services from the OP bank wherein the bank has been deficient in being negligent in protecting the pledged goods, in carrying out unauthorized auction of such pledged goods without any notice or intimation, and, in acquiescing in the realization of sale price at a rate far lower than the market rate and without fixing any reasonable floor price. The appellant has also submitted that the learned State Commission has grossly erred in law in holding that the complaint is not maintainable because the complainant does not fall in the definition of Section 2(1)(d) of the CP Act when he is an agriculturist and when the financial service obtained is that of an agricultural loan after pledging agricultural produce. Similarly, based on the decisions on

page number 28 onwards of the additional documents filed on 09.02.2024, it is also the contention that the State Commission is in absolute error of fact and law in holding that the subject matter of the complaint involved competing contentions of investigation into alleged fraud committed by the employees of NCML wherein complainant was unnecessarily dragged when the amount of infidelity insurance has not only been received by NCML but has been also made over to the OP HDFC bank. It is the submission that as far as the deficiency in service on the part of the OP bank is concerned, there remains no complicated question of fact, which cannot be determined in summary proceedings by this Commission. Relying further on latest decision of the Apex Court in *Shriram Chits India (P) Ltd. Vs. Raghachand Associates*, it is contended that the onus to prove that the transaction in question is for commercial purposes, is on the OP bank which has not been discharged by it and therefore also the State Commission has erred in non-suiting the complainant on the ground of maintainability.

5. Mr. Tandon, the learned senior counsel for the HDFC bank began his counter arguments by way of providing a broad factual background stating that there are more than 40 concurrent such transactions of borrowals wherein the pledged stocks are found to be sub-standard both in quality and quantity and there has been a fraud wherein the borrowers have also been party for which police investigation has been carried out and charge sheets have been filed. It was submitted further that the learned State Commission has been absolutely justified in holding that the disputed question of fact involving allegations of fraud for which charge sheets have been filed, cannot be adjudicated in the summary proceedings before a forum. For detailed arguments after duly drawing attention of the Commission to the requisite documents would take some time, which is not possible due to paucity of time left for the day, and therefore, the matter requires to be adjourned. Accordingly, the matter is adjourned for further arguments.

08.01.2026

"Having heard the Authorized Representative of the complainants and the representative of the DCB Bank as well as Mr. Tandon, learned Senior Counsel for HDFC Bank, we find that the State Commission has proceeded to dismiss the complaints on the ground that the complainants are not consumers as the transaction about which the complaints have been made is a commercial transaction. The second ground taken is that the dispute involves disputed question of fact arising out of fraudulent transactions and therefore the consumer complaints would not be maintainable.

In order to appreciate the aforesaid findings recorded by the State Commission, we have been taken through the pleadings on record, including the translated copies of the complaints filed in all these appeals as also the replies filed by the DCB Bank and the HDFC Bank. On a perusal of the translations, it appears that the translations do not exactly match the original pleadings which are in Gujarati vernacular. We therefore request the learned counsel for the Banks to get the relevant pleadings translated appropriately and present it by the next date for us to proceed further.

List on 30.04.2026 at 2.00 p.m."

29.07.2026

"Heard Mr. Navinchandra R. Thakkar, Authorised Representative of all the appellants in the present appeals, who has advanced his submissions and has indicated through his two fold submissions that firstly the complainants have categorically alleged that they are farmers and they also do small scale business of their produce. Secondly he submits that in case any criminal proceedings have been undertaken, the same is not related to those persons who had stored their goods as the FIR is against the officials of the NCML and Mr. Navinchandra R. Thakkar and not against any of the farmers who are almost 200 in number. It is therefore urged that lodging or continuance of any criminal proceedings does not in any way have an impact on the present proceedings, where all the appellants are clearly consumers and they could not have been non-suited on the findings recorded by the State Commission. He therefore submits that the consumer complaints are maintainable and even otherwise are entertainable on merits.

He has invited the attention of the Bench to the various documents on record in FA/1023/2022 as also the documents in FA/864/2022 and he submits that the impugned order of the State Commission is not sustainable. He has concluded his arguments today by citing two decisions, one of this Commission in the case of M/s. Muthoot Fincorp Ltd. & Anr. Vs. Tatineni Vijay Kumar, RP/3251/2014, decided on 25.03.2019 and then the decision of the Apex Court in the case of M/s. Nandan Biomatrix Ltd. Vs. S. Ambika Devi & Ors., (2020) 13 SCC 130. He has also cited another decision of the Apex Court in the case of Canara Bank Vs. United India Insurance Company Ltd. & Ors., (2020) 3 SCC 455 to urge that farmers are consumer and consequently keeping in view the ratio of the said decisions the impugned order deserves to be reversed.

Mr. Tandon, learned senior counsel has appeared online of the HDFC Bank and Mr. Bhavin N. Daftary for DCB Bank has also appeared online and they pray that the matter be taken up on some other day to enable them to advance their submissions.

Let the matters be listed on 03.08.2026, after the admission hearing matters."

3. Mr. Tandon, senior counsel for the HDFC Bank and the counsel Mr. Bhavin Daftary for DCB Bank were further heard, and Mr. Tandon has contended as under:

"The transactions in all the 27 cases as above, were commercial transactions and not in any way related to consumer transactions.

- (i) The appellants approached the respondent Bank for Short Term Loan Facility for their farming business. The Respondent Bank sanctioned and disbursed Loan (Credit Facilities) against Warehouse Receipt Facility under Pledge Funding to the appellants which was to be repaid by them after maturity of the loan on 24.01.2018.*
- (ii) The grant of a loan / credit facility by a bank against consideration (interest) creates a relationship of creditor and debtor. The rights and obligations of the parties are governed wholly by the contract - the Loan Agreement grievance arising from it is, at its core, a contractual dispute. Where, additionally, the facility is availed for a commercial purpose, the transaction is a "business to business" dealing that stands outside the consumer jurisdiction.*
- (iii) The relationship between the appellants and respondent was that of the Debtor and Creditor. It is covered under the RDB Act and accordingly Original Application u/s 19 of the RDB Act was filed by the Respondent Bank as against the appellants.*

4. Mr. Tandon has also relied on the following judgments of Hon'ble Supreme Court and this Commission:

1. Sant Rohidas Leather Industries & Charmaker Development Corporation Ltd. Vs. Vijaya Bank in CC No. 2866 of 2017 decided on 13.03.2023
2. Laxmi Engineering Works Vs. P.S.G. Industries Institute, (1995) 3 SCC 583.
3. Shrikant G. Mantri Vs. Punjab National Bank, (2022) 5 SCC 42
4. Wimco Ltd. Vs. Ashok Sekhon & Ors. 2008 SCC Online NCDRC 94
5. Renuka Poultry Farm Vs. State Bank of India 2020 SCC Online NCDRC 1002

5. Mr. Daftary's contentions on behalf of the DCB Bank are substantially the same. However, he has categorically pointed out that the DCB Bank has neither initiated any recovery proceedings nor has it denied that the Complainants are

entitled for the amounts. The submission is that the Bank is not liable for any deficiency in service in as much as the mis-management of the pledged security is done by the the Collateral Managers, who only, and not the Bank, are liable to the complainants for damages and deficiency in service if any. It has, however, categorically been pleaded by the DCB Bank in reply to the complaint that the complainants have (a) entered into the loan transaction for pure commercial purpose, (b) the complaint sufferers from mis-joinder of necessary parties, primarily the collateral managers, and (c) there is no deficiency in service of the OP Bank, and hence the complaint is not maintainable and has been rightly dismissed by the State Commission. The attention of the Bench was invited to the written arguments placed on record. On the other hand, the complainant has also filed detailed written arguments in support of their appeals and have relied on the following judgments of Hon'ble Supreme Court and this Commission:

1. Muthoot Fincorp Vs. Tatineni Vijaya Kumar in RP No. 3251 of 2014 decided on 25.03.2019,
2. M/s Nadan Biometric Ltd. Vs. S. Ambika Devi & Ors. in Civil Appeal No. 7357-7376 of 2010 decided on 06.03.2020,
3. Canara Bank Vs. United India Insurance Co. Ltd. & Ors. (2020) 3 SCC 455 decided on 06.02.2020,
4. Vimal Chandra Grover Vs. Bank of India in Civil Appeal No. 15701 of 1996 decided on 26.04.2000,
5. M/s Paramount Digital Color Lab & Ors. Vs. M/s Agfa India Pvt. Ltd. & Ors. in Civil Appeal Nos. 2109-2110 of 2018 decided on 15.02.2018,
6. Standard Chartered Bank Ltd. Vs. Dr. B.N. Raman in Civil Appeal No. 2982 of 2006 decided on 14.07.2006,

6. Complainant has also relied on the judgement of Hon'ble Supreme Court in the case of *Vinit Bahri & Anr. Vs. M/s MGF Developers Ltd. & Anr.*, relevant portion of which is extracted below:

"15. The principles laid down in Lilavati Kirtilal Mehta Medical Trust (supra) were reiterated in Rohit Chaudhary v. Vipul Limited", wherein this Court observed as under:

"18. Thus, if the dominant purpose of purchasing the goods or services is for a profit motive and this fact is evident from the record, such purchaser would not fall within the four corners of the definition of "consumer". On the other hand, if the answer is in the negative, namely, if such person purchases the goods or services is not for any commercial purpose and for one's own use, it cannot be gainsaid even in such circumstances the transaction would be for a commercial purpose attributing profit motive and thereby excluding such person from the definition of "consumer".

(Emphasis Supplied)

16. While the aforesaid decisions elucidate the legal principles for determining what constitutes 'commercial purpose', the equally critical question as to who bears the

burden of proving whether or not, the transaction falls within the exclusion clause of the term 'consumer' was addressed by this Court in **Shriram Chits (India) Private Limited Earlier Known as Shriram Chits (K) Pvt. Ltd. v. Raghachand Associates**, in following words:

"19. As we have shown above, the definition of consumer has three parts. The significance of deconstructing the definition into three parts was for the purpose of explaining on whom lies the onus to prove each of the different parts. There can hardly be any dispute that the onus of proving the first part i.e. that the person had bought goods/availed services for a consideration, rests on the complainant himself. The carve out clause, in the second part, is invoked by the service providers to exclude the complainants from availing benefits under the Act. The onus of proving that the person falls within the carve out must necessarily rest on the service provider and not the complainant. This is in sync with the general principle embodied in Sections 101 and 102 of the Evidence Act, 1872 that "one who pleads must prove". Since it is always the service provider who pleads that the service was obtained for a commercial purpose, the onus of proving the same would have to be borne by it. Further, it cannot be forgotten that the Consumer Protection Act is a consumer-friendly and beneficial legislation intended to address grievances of consumers. [National Insurance Co. Ltd. v. Harsolia Motors, (2023) 8 SCC 362 : (2023) 4 SCC (Civ) 53] Moreover, a negative burden cannot be placed on the complainant to show that the service available was not for a commercial purpose.

20. Having held that the onus to prove that the service was obtained for a commercial purpose is on the service provider, we may clarify the standard of proof that has to be met in order to discharge the onus. The standard of proof has to be measured against a "preponderance of probabilities". The test to determine whether service obtained qualified as a commercial purpose is no longer res integra in view of this Court's decision in Lilavati Kirtilal Mehta case [Lilavati Kirtilal Mehta Medical Trust v. Unique Shanti Developers, (2020) 2 SCC 265 : (2020) 1 SCC (Civ) 320]. Para 19 sets out the principles on which it must be determined whether the onus of proving "commercial purpose" has been properly discharged by the service provider.

21. If and only if, the service provider discharges its onus of showing that the service was availed, in fact for a commercial purpose, does the onus shift back to the complainant to bring its case within the third part i.e. Explanation (a) to Section 2(7) — to show that the service was obtained exclusively for the purpose of earning its livelihood by means of self-employment."

(Emphasis Supplied)

17. In the light of the aforesaid adjudications and for the reasons discussed hereinbefore, we are of the considered view that the NCDRC has erred in dismissing the appellants' complaint. The onus of proving that the appellants fall within the exclusion clause of Section 2(1)(d) of the 1986 Act rests upon the respondents, and the respondents have failed to discharge this onus on a preponderance of probabilities. The determinative question is whether the dominant intention or dominant purpose behind purchasing the flat was to facilitate profit generation through commercial activity, and whether there exists a close and direct nexus between the purchase and such profit-generating activity. The respondents have not placed any cogent material on record to establish such nexus. The mere factum of leasing out the flat does not, by itself, demonstrate that the appellants purchased the property with the dominant purpose of engaging in commercial

activity. The question of what constitutes 'commercial purpose' is a question of fact to be decided in the circumstances of each case based on the purpose to which the goods/properties were purchased. It must be emphasized that the mere act of purchasing immovable property, even multiple units, cannot ipso facto attract the exclusion clause of Section 2(1)(d) of the 1986 Act unless and until it is proved that the dominant purpose behind such purchase was commercial in nature. In absence of such proof, the appellants cannot be excluded from the definition of 'consumer' under the 1986 Act."

7. We have carefully considered the rival contentions and have carefully perused the decisions relied upon by the parties. Better translated copy of the complaint has been filed on behalf of HDFC bank. As per the complaint para 1, the complainant is engaged in agriculture and small trading. It is also the positive averment in the first para of the complaint that through this agriculture and small trading he is supporting his family, meaning thereby that the activity is undertaken by him for the purpose of earning his livelihood. The reply filed by the HDFC bank to the complaint before the State Commission, in fact has raised no preliminary objections regarding the maintainability, and on the contrary, the averment of the complainant in para 1 of the complaint that the complainant is engaged in agriculture and in small trading with a view to maintain his family, have been merely stated to be "a matter of record", though, in para 4 of the reply, it is stated that "as per the information available", the pledged goods are neither owned. nor cultivated by the farmers and the loan has been obtained for commercial and fraudulent purposes.

8. Mr. Tandon, during arguments and in his reply to the contentions advanced by Mr. Thakker, has not disputed the facts as recorded in our order dated 29.04.2025 as reproduced supra. As per the agreement signed by the Bank with the Collateral Managers, the responsibility and obligation for complete verification of quantity, quality and value of the pledged goods and complete security of the pledged goods rests wholly and unconditionally with the Collateral Manager, and as such, under the said agreement, the Collateral Manager is also obliged to obtain an insurance policy to cover the risk of infidelity of the employees, and NCML in fact has lodged and received a claim of Rs. 5.26 crores relating to the loss suffered by the NCML relating to 25 borrowers whose pledged goods were in their custody and care. The Loan by the Respondents-Banks is disbursed only on the security of the pledging of the goods evidenced by way of warehouse receipt issued by Bank's nominated Collateral Manager. Only upon such verified receipt (called Arrival Report) of the pledged goods on the basis of such warehouse receipts issued by the Bank's approved Collateral

Managers, such agricultural loans were granted to these farmers upon security and constructive possession under pledge of such goods lying with and certified by the Collateral Manager. Otherwise also, section 6 and 7 of the Warehousing (Development and Regulation) Act, 2007 provides for absolute liability of the warehousemen for the loss or injury to the warehoused goods due to negligence or any other cause and his unconditional duty to deliver goods as deposited to the holder of the Warehousing Receipt. In the loan agreement, the business of the borrower is stated to be "business of agriculture" and the credit facility is described as "Product Program for Farm Credit". As per schedule to the loan agreement, the maximum period of loan is 330 days or the date of expiry of the warehouse receipt. As per the the statement of account, for example, in FA/1023, the loan sanctioned is Rs. 50 lacs, disbursed is Rs. 39.40 lacs and value of pledged goods is Rs. 68.55 lacs. Similarly, in FA/308 (Karshanji Jiluji), the total amount of loan was Rs.19.32 lakhs as against the value of the pledged goods certified by collateral managers of higher amount. Premature notice of recovery/repayment was issued by the HDFC Bank "to repay the loan within 48 hours", in response to which, it was stated by the complainant that upon handing over (returning) of the pledged goods, the complainant is ready to repay the outstanding loan with interest. However, it appears, the Banks issued auction notices and proceeded with the auctions (HDFC Bank on 25.04.2018 and DCB Bank on 20.04.2018) and sold the pledged goods in October 2018. The complainants have alleged deficiency and compensation *qua* the propriety of the hurried, pre-mature and one-sided auction of pledged goods carried out by the Banks without proper notice, intimation and information to the borrowers and without following due process and guidelines in this behalf and without first ensuring and enforcing the receipt from the Collateral Managers of quality and quantity of the pledged goods as evidenced by the Warehouse Receipt. What appears to be sum and substance of the contentions and averments in the complaint is that the Bank is deficient in Banking service particularly with regard to the security of the pledged goods and the due process in the sale of pledged goods and auction. The compensation claim is made and quantified on the basis of deficit in realization of amount after auction sale *qua* the value of the pledged goods, and the interest thereon.

9. While HDFC Bank has also initiated proceedings before the Debt Recovery Tribunal and has also filed Criminal Complaint against the officers of the Collateral

Management Company and one Mr. Thakkar (who, incidentally, happens to be the A.R. of the borrowing farmer-complainants), the DCB Bank has not initiated such recovery proceedings. The allegations with regard to auction process are made in paras 6 to 8 of the complaint. The reply filed by the DCB Bank does take the preliminary objections of (a) commercial nature of transaction, (b) complicated questions of facts (c) non-joinder of parties, and (d) that the auction made by the Bank itself is not under challenge. However, the preliminary objections or reply to the complaint does not appear to refer to any evidence as to how such preliminary objections get substantiated or are otherwise well-founded. Para 1 of the reply admits the complainant's averment that the complainant is an agriculturist and is engaged in small trading for feeding his family is correct. The HDFC Bank's reply to the complaint does not take any preliminary objection with regard to the maintainability of the complaint though it otherwise contains unsubstantiated averments in the nature of such objection based on "available information". Mr. Tandon, during his reply has taken us through various clause of the loan agreements. However, there is no specific evidence to establish the contentions that the dominant purpose of the transaction of obtaining the loan is to generate profits in or through any commercial activity. Despite specific reference to *Shriram Chits* in our order dated 29.04.2025, Mr. Tandon could not point out as to how the burden was discharged by the Bank.

10. In this backdrop, we may refer to the State Commission's order. The State Commission, after referring to the facts and allegations of the compliant, in paras 10 to 12 suddenly refers to the decision of the Supreme Court in *Srikant G Mantri* and concludes that the "relationship between the complainant and the Bank is of commercial nature", and that "considering the amount of loan it is evident that the transaction is for commercial purpose". In para 13 and 14 of the order, the State Commission generally refers to the allegations in the complaint of fraud played by the Bank's officers in wrongfully auctioning the pledged goods. However, while doing so, and thus concluding in para 14 and 15 that complicated questions of fact are involved which cannot be decided by the consumer commission, the State Commission appears not only to have rushed to a conclusions not warranted on the basis of the facts established on record, in our opinion, the State Commission has also wholly ignored the allegations in the complaint, not so categorically denied by the Bank with regard to hurried auction carried out by the Bank in violation of the prescribed procedure, without even fixing the floor price of the commodity and without ensuring the fair-play in such

auction. Notably, the DCB Bank has not initiated any recovery proceedings on one hand and the HDFC Bank has already received a sum of Rs.5.25 crores from the Collateral Managers, NCML, who thus have accepted the liability towards the Bank.

11. Having minutely perused the pleadings before the State Commission, the evidence filed by the parties before us and the decisions relied upon by the parties, we have come to a considered conclusion that the State Commission has erred in non-suiting the complainants on the grounds as discussed by the State Commission and otherwise also on the basis of the facts as emerging during the course of the present appeals. First and foremost, the State Commission refers to or relies on no credible evidence filed by the OPs even attempting to establish that the complainants have entered into the subject transaction for "any commercial purpose". The transaction of obtaining the agricultural loan, or for that matter any other loan, in itself is "a banking service" on one hand and has no necessarily embedded direct nexus with the profit generating activity of the complainants. The agriculture is distinct from commerce and as so emphatically laid down by the Supreme Court in the decisions relied upon by the Complainant, particularly, *Sriram Chits*, which is followed in *Vinit Bahri*, the "commercial purpose" i.e. the direct nexus of the transaction with profit generation is to be first pleaded in the reply not baldly but meaningfully, and then to be established by the OP by cogent and significant material to be brought on record. HDFC Bank has not at all categorically pleaded such nature of the transaction and both the Banks together have not brought any such evidence on record to establish such purpose of the transaction. Before non-suiting the complainants, the consideration and evaluation of such evidence to be brought on record by the Bank in light of the counter-contentions and evidence of the complainants, if any, have not been considered necessary by the State Commission. The State Commission also seems to have been influenced by the amount of loan ranging between Rs.20 lakhs to 50 lakhs obtained by the complainants to come to the conclusion of the purpose and nature of the transaction of obtaining the loan to be commercial. In our considered opinion, such quantum in itself and alone cannot in law form a basis for the finding of commercial purpose of the transaction so as to non-suit the complainant as has been done by the State Commission. The finding of fact of "commercial purpose" of the transaction has to be based, apart from the quantum of the transaction itself, *inter alia*, on multiple other considerations like whether it is business to business, whether the dominant purpose of the complainant is profit generation to be shown by the respondent through

such direct nexus with the transaction, including whether the obtaining of “agricultural loan” can at all come under such purpose. In our opinion, therefore, the OPs have failed in discharging the onus as mandated by Supreme Court in *Sriram Chits* and *Vinit Bahri*. Moreover, the decision of NCDRC in *Sant Rohidas Leather Industries (supra)*, travelled upto the Supreme Court in CA No. 4841 of 2023 wherein the decision of NCDRC is approved though on different grounds as reported in (2026) SCC Online SC 445. However, it is categorically observed in the said decision that the commercial purpose of the transaction, when deeply entwined with the allegation of fraud, cannot be decided without first going into the complicated questions of fraud and cheating. The facts in the present case are absolutely different in as much as the present individual complainants-appellants have obtained simple banking service of loan on the security of pledge through ware-house receipt, for specified period for interest at 10.5%. The allegation of the alleged fraud alleged by the OP is not by the complainants but by the third parties with which no direct connection of either the complainants or any deficiency in service in the alleged pre-mature auction of the pledged goods in violation of the fair-play, due notice and due and transparent process is made out or established by the Banks. Thus, the onus as envisaged under *Shriram Chits (supra)* has not been successfully discharged by the respondents, and therefore, the decision in *Sant Rohidas* may not strictly apply. and therefore the State Commission has fallen in error of law in dismissing the complaint on the ground of the purpose of the transaction being commercial.

12. Coming to the ground of allegations of fraud as made in the complaint and the State Commission's conclusion of non-suiting the complainant on the ground of complicated and disputed questions of fact requiring consideration of the complaint by a civil court and not by the State Commission itself, we are again not in agreement with the State Commission. Indeed in para 10 of the complaint the complainant has pleaded that there is deficiency in service on the part of the bank because by way of an illegal auction of the pledged good, “the bank has engaged into fraud and negligence in banking services”, the same needed to be contextually read in light of the allegations in paras preceding such para 10 and particularly in light of para 4 to 9 of the complaint. The prime allegation in the complaint is the deficient banking service particularly the illegal, negligent and deficient holding of the auction and selling such pledged goods at less than the market price and of quantity lesser than pledged, without following the

due prescribed procedure. Otherwise, also the consumer fora under the Act of 1986 has ample powers to require the parties to file documentary evidence and appropriate affidavits and even to take oral evidence. Without appreciating and weighing such evidence to be brought on record by the parties, it would be erroneous to come to a conclusion that the consideration of allegations in the complaint "involves complicated questions of fact which cannot be decided in summary proceedings". If at all such conclusion is to be arrived at, in our considered opinion, such conclusion has to wait till the requisite evidence is allowed to be filed by the parties and is duly appreciated by the Commission which might form the basis and rationale for relegating the complainant to the civil court. It is also true that the HDFC bank has initiated recovery proceedings against the borrowers-complainants and has also initiated criminal proceedings against some individuals, none of whom is stated to be a borrower (complainant) himself, but that in itself and alone and without any other aspect touching the allegation of deficient service, cannot amount to leading to the consideration of "complicated questions of fact" requiring in itself non-suiting of the complainant at the preliminary stage. The issue of the non-joinder of the Collateral Manager as OP can also not be fatal to the complaint in as much as under the doctrine of *dominus litis*, the primacy of the complainant's choice of the OPs would be fundamental and the State Commission itself can always rule in this behalf as considered necessary in light of legal position.

13. In view of the discussion as above, we are of the opinion that the complaint, on the basis of material available on record with the State Commission, was maintainable under section 2(1)(d) and therefore there is error in non-suiting the complainant at this stage and therefore, the appeals need to be allowed. All the appeals therefore are allowed. The respective orders of the State Commission are set aside and the respective complaints are restored to the files of the State Commission at their original numbers. The State Commission shall, therefore, proceed with the complaints and decide the same on merits in accordance with law from the stage at which they were disposed off. The parties shall appear before the State Commission on 08.10.2026 after which the matters shall proceed as per further directions of the State Commission. It is made clear that no aspect of this order shall be taken to be any comments or direction or opinion with regard to the weight or merit of any evidence referred to herein or the merits of the controversy. The State Commission shall accordingly proceed to

decide the complaints on merits remaining wholly uninfluenced by any observation in these orders.

14. All the appeals are allowed.

Sd/-

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(A.P. SAHI, J.)
PRESIDENT

Sd/-

.....
(BHARATKUMAR PANDYA)
MEMBER

aj/