

**IN THE DELHI STATE CONSUMER DISPUTES REDRESSAL
COMMISSION**

Date of Institution: 03.01.2023

Date of hearing: 04.07.2023

Date of Decision: 30.11.2023

REVISION PETITION NO.02/2023

IN THE MATTER OF

M/S ADINATH PROPERTIES PVT. LTD.,

THROUGH IT'S A.R.,

MR. NAGENDER VERMA,

OFFICE AT: 118, VIPUL AGORA,

M.G. ROAD, GURGAON, HARYANA.

**(Through: Mr. Sumit Nandvani & Ms.
Anchal Jindal, Advocates)**

...Revisionist

VERSUS

1. MS. KAMINI KAPOOR,

W/O MR. YOGESH KAPOOR,

2. MR. YOGESH KAPOOR,

S/O MR. R.C. KAPOOR.

BOTH RESIDING AT:

(Through: ANG Partners Advocates & Solicitors, Advocates)

...Respondent

CORAM:

**HON'BLE JUSTICE SANGITA DHINGRA SEHGAL
(PRESIDENT)**

HON'BLE MS. PINKI, MEMBER (JUDICIAL)

Present: Ms. Anchal Jindal, proxy counsel for the Revisionist.
Mr. Shubham Kaushik, counsel for the Respondent

**PER: HON'BLE JUSTICE SANGITA DHINGRA SEHGAL,
PRESIDENT**

JUDGMENT

1. The present revision petition has been filed against the order dated 23.11.2022 passed by the District Commission in Consumer Complaint No. 181/2020 titled as Kamini Kapoor v. Adinath Properties Pvt. Ltd., wherein the review application filed by the Revisionist/Opposite Party, was dismissed before the District Commission.
2. The Counsel for the Revisionist/Opposite Party submitted that the District Commission erred in not appreciating the legal compliance under regulation 10(5) of consumer protection Regulation, 2020 which mandates that notice issued by the District Commission should be accompanied by complete copy of the complaint. Thus, the conjoint reading of clause 38(2) (a) and 38(2)(b) makes it clear that commencing point of limitation period of 30 days from the receipt of notice accompanied by the complaint and not merely receipt of the

notice. Pressing the aforesaid contentions, the Revisionist/Opposite Party prayed for setting aside the order dated 23.11.2022 of the District Commission.

3. The Respondent has filed the reply to the present revision petition and submitted that this commission does not have subject matter jurisdiction to entertain the present matter under section 47(1)(b) of the consumer protection act 2019. The counsel for the respondent also submitted that the revisionist not only delayed on filing the written statement but also delayed in filing the review before District Commission.
4. To deal with the present issue, we deem it appropriate to refer to ***Section 47 (1)(b) of the Consumer Protection Act, 2019*** reproduced hereunder as:

“(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.

5. A perusal of the aforesaid statutory position makes it clear that the State Commission can entertain a revision petition in cases where the District Commission has acted extra-judicially or the District Commission has failed to exercise the jurisdiction vested in it by law or has acted in exercise of its jurisdiction illegally or with material irregularity. Reverting to the material on record, it is imperative to

refer order dated 01.09.2022 and 23.11.2022 passed by the District Commission, which is reproduced below respectively:

2/24/22, 1:07 PM Daily Order

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-II UDYOG SADAN C 22 23
QUTUB INSTITUTIONAL AREA BEHIND QUTUB HOTEL NEW DELHI 110016

Complaint Case No. CC/181/2020

KAMINI KAPOOR Vs. M/S ADINATH PROPERTIES
PVT LTD

BEFORE:
MONIKA A. SRIVASTAVA PRESIDENT
KIRAN KAUSHAL MEMBER
UMESH KUMAR TYAGI MEMBER

PRESENT: Adv. Anshul Gupta for the complainant on VC.for the Complainant
Adv. Sumit Nandwani for the OP on VC.for the Opp. Party

Dated : 01 Sep 2022

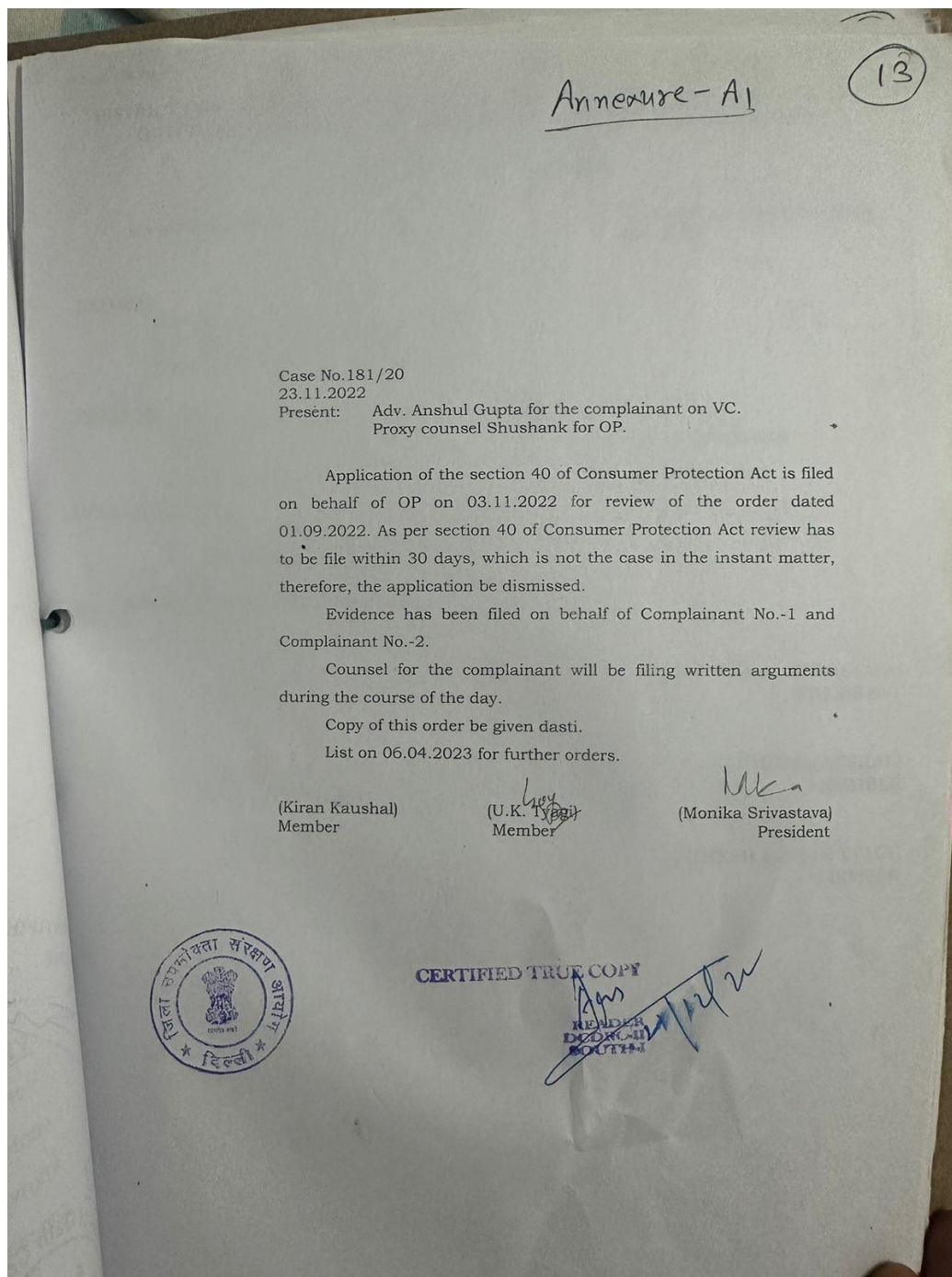
Order
Complaint copy was collected alongwith documents on 25.04.2022 by the OP.
However, the reply has only been filed on 26.07.2022, which is much beyond prescribed time,
therefore the right of OP to file reply is closed. Reply is not taken on record.

List on 15.11.2022 for complainant's evidence by way of affidavit before the next date of hearing.

[MONIKA A. SRIVASTAVA]
PRESIDENT

[KIRAN KAUSHAL]
MEMBER

[UMESH KUMAR TYAGI]
MEMBER



6. The order dated 01.09.2022 makes it clear that the copy of the complaint along with other documents were collected by the Revisionist and written statement was filed by it on 26.07.2022, which beyond the period of prescribed period of 30 days. As a result, the right to file written statement was closed by the District Commission. Further, it is clear from the order dated 23.11.2022 also

- filed after 30 days i.e., on 03.11.2022 from the date of order i.e., 01.09.2022. Therefore, the same was also dismissed by the District Commission. Moreover, we found nothing on record to indicate that the revisionist was not received copy of the complaint on 25.04.2022.
7. Furthermore, it is to be noted that the Hon'ble Apex Court has left no room for confusion and has already settled the legal position in this regard in *New India Assurance Company Ltd vs Hili Multipurpose Cold Storage Pvt.Ltd. (2020) SCC 75*. The Hon'ble Apex Court has categorically held that the Consumer Commission cannot condone the delay beyond the statutory limit of 45 days from the date of service. Thus, we opine that District Commission has only exercised the jurisdiction vested in it by closing the write of the revisionist to file written statement. More so, review application was also filed by beyond the period of 30, therefore there is no irregularity in the order dated 01.09.2022 and 03.11.2022 passed by the District Commission.
 8. Therefore, in light of the aforesaid discussion, we find no reason to interfere with the order dated 03.11.2022 passed by the New District Consumer Disputes Redressal Commission-II Udyog Sadan C 22 23 New Delhi-110016 in Consumer Complaint No.181/2020 titled as Kamini Kapoor v. Adinath Properties Pvt. Ltd. Consequently, the Revision Petition No.02/2023 stands dismissed with no order as to costs.
 9. The Parties are directed to appear before District Commission on 04.01.2024.
 10. Application(s) pending, if any, stand disposed of in terms of the aforesaid judgment.

11. The judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.
12. File be consigned to record room along with a copy of this Judgment.

**(JUSTICE SANGITA DHINGRA SEHGAL)
PRESIDENT**

**(PINKI)
MEMBER (JUDICIAL)**

**Pronounced On:
30.11.2023.**