

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**REVISION PETITION NO. 533 OF 2019**

(Against the Order dated 07/01/2019 in Appeal No. 913/2018 of the State Commission Chhattisgarh)

**WITH**

**IA/4458/2019(Stay),IA/6184/2019(Placing addl. documents)**

1. BRANCH MANAGER, UNIVERSAL SOMPO GENERAL  
INSURANCE COMPANY LIMITED. & 2 ORS.

SRI RAM NAGAR, T.V. TOWER ROAD, POST SHANKAR  
NAGAR,

RAIPUR-492001

CHHATTISGARH

2. BRANCH MANAGER/REGIONAL MANAGER,  
UNIVERSAL SOMPO GENERAL INSURANCE CO. LTD.

1ST FLOOR, KESARI COMPLEX 98 KORBALA NAGAR,  
BHUBANESHWAR-751001

ORISSA

3. CHAIRMAN MANAGING DIRECTOR, UNIVERSAL  
UNIVERSAL SOMPO GENERAL INSURANCE CO. LTD.

UNIT NO. 401, 4TH FLOOR, SANGAM COMPLEX,  
ANDHERI KURLA ROAD,

ANDHERI EAST MUMBAI-400059

MAHARASHTRA

.....Petitioner(s)

Versus

1. DIDWANIYA EXIM PRIVATE LIMITED & ANR.

THROUGH ITS ASHISH DIDWANIA, S/O. LT. SHRI  
SITARAM DIDWANIA, R/O. HOUSE NO. 291/A, SAMTA  
COLONY,

RAIPUR

CHHATTISGARH

2. BRANCH MANAGER, ALLAHABAD BANK,

SHYAM NAGAR, TELIBANDA

RAIPUR-492001

CHHATTISGARH

.....Respondent(s)

**REVISION PETITION NO. 534 OF 2019**

(Against the Order dated 07/01/2019 in Appeal No. 914/2018 of the State Commission Chhattisgarh)

**WITH**

**IA/4459/2019(Stay),IA/6185/2019(Placing addl. documents)**

1. BRANCH MANAGER, UNIVERSAL SOMPO GENERAL .....Petitioner(s)  
INSURANCE COMPANY LIMITED. & 2 ORS.

SRI RAM NAGAR, T.V. TOWER ROAD, POST SHANKAR  
NAGAR,

RAIPUR-492001

CHHATTISGARH

2. BRANCH MANAGER/REGIONAL MANAGER,  
UNIVERSAL SOMPO GENERAL INSURANCE CO. LTD.

1ST FLOOR, KESARI COMPLEX 98 KORBALA NAGAR,

7/22/2019

BHUBANESHWAR-751001

ORISSA

3. CHAIRMAN MANAGING DIRECTOR, UNIVERSAL  
UNIVERAL SOMPO GENERAL INSURANCE CO. LTD.

UNIT NO. 401, 4TH FLOOR, SANGAM COMPLEX,  
ANDHERI KURLA ROAD,

AHDHERI EAST MUMBAI-400059

MAHARASHTRA

Versus

1. DIDWANIYA EXIM PRIVATE LIMITED & ANR.

THROUGH ITS ASHISH DIDWANIA, S/O. LT. SHRI  
SITARAM DIDWANIA, R/O. HOUSE NO. 291/A, SAMTA  
COLONY,

RAIPUR

CHHATTISGARH

2. BRANCH MANAGER, ALLAHABAD BANK

SHYAM NAGAR, TELIBANDA

RAIPUR-492001

MAHARASHTRA

.....Respondent(s)

**REVISION PETITION NO. 535 OF 2019**

(Against the Order dated 07/01/2019 in Appeal No. 918/2018 of the State Commission Chhattisgarh)

**WITH**

**IA/4460/2019(Stay),IA/6186/2019(Placing addl. documents)**

1. BRANCH MANAGER, UNIVERSAL SOMPO GENERAL  
INSURANCE COMPANY LIMITED. & 2 ORS.

SRI RAM NAGAR, T.V. TOWER ROAD, POST SHANKAR  
NAGAR,

RAIPUR-492001

CHHATTISGARH

2. BRANCH MANAGAR/REGIONAL MANAGER,  
UNIVERSAL SOMPO GENERAL INSURANCE CO. LTD.

1ST FLOOR, KESARI COMPLEX 98 KORBALA NAGAR,  
BHUBANESHWAR-751001

ORISSA

3. CHAIRMAN MANAGING DIRECTOR, UNIVERSAL  
UNIVERAL SOMPO GENERAL INSURANCE CO. LTD.

UNIT NO. 401, 4TH FLOOR, SANGAM COMPLEX,  
ANDHERI KURLA ROAD,

AHDHERI EAST MUMBAI-400059

MAHARASHTRA

.....Petitioner(s)

Versus

1. DIDWANIYA EXIM PRIVATE LIMITED & ANR.

THROUGH ITS ASHISH DIDWANIA, S/O. LT. SHRI  
SITARAM DIDWANIA, R/O. HOUSE NO. 291/A, SAMTA  
COLONY,

RAIPUR

CHHATTISGARH

2. BRANCH MANAGER, ALLAHABAD BANK,

SHYAM NAGAR, TELIBANDA

.....Respondent(s)

7/22/2019

RAIPUR-492001  
CHHATTISGARH

**BEFORE:**

**HON'BLE MR. JUSTICE R.K. AGRAWAL, PRESIDENT**  
**HON'BLE MRS. M. SHREESHA, MEMBER**

**For the Petitioner :** Mr. Rajat Khattry & Mr. Siddarth Iyer, Advocates

**For the Respondent :** Mr. Anand Shankar Jha, Advocate for R-1

**Dated : 21 May 2019**

**ORDER**

The present Revision Petitions have been filed against the order dated 07.01.2019 passed by the Chhattisgarh State Consumer Disputes Redressal Commission (hereinafter referred to as 'the State Commission') alongwith the Revision Petitions, certain additional documents were filed, which did not form the part of the record of either the District Consumer Forum or the State Commission. The Applications IA/6184, 6185, 6186/2019 have been filed seeking to bring on record the additional documents. The question is, as to whether in our jurisdiction under Section 21(b) of the Consumer Protection Act, 1986, the additional documents can be taken on record or not.

In this connection, reference is made to Section 13 (4) of the Act which provides as follows.

*“13 (4) For the purposes of this section, the District Forum shall have the same powers as are vested in a civil court under Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:—*

- (i) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;*
- (ii) the discovery and production of any document or other material object producible as evidence;*
- (iii) the reception of evidence on affidavits;*
- (iv) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;*
- (v) issuing of any commission for the examination of any witness, and*
- (vi) any other matter which may be prescribed.”*

Clause (vi) of Sub Section (4) gives the powers to the District Consumer Forum as also the State Commission and the National Commission to exercise any powers of the Civil Court, which may be prescribed. The word prescribed has been defined in Section 2(n) of the Act to mean “prescribed by Rules made by the State Government, or as the case may be, by the Central Government”. Under Section 30 of the Act, Central Government has been given power to make Rules, whereas by Section 30A, National Commission has been given power to make Regulations. The Central Government in exercise of the powers conferred by sub-section (1) of Section 30 of the Consumer Protection Act 1986, has made the Consumer Protection Rules 1987. Rule 15 of the said Rules has prescribed the procedure for hearing the Appeal. It reads as follows: -

**“15. Procedure for hearing the appeal.--** (1) Memorandum shall be presented by the appellant or his agent to the National Commission in person or be sent by registered post addressed to the Commission.

(2) Every memorandum filed under sub-rule (1) shall be in legible handwriting preferably typed and shall set forth concisely under distinct heads, the grounds of appeal without any argument or narrative and such grounds shall be numbered consecutively.

(3) Each memorandum shall be accompanied by a crossed demand draft as referred to in rule 14A and by a certified copy of the order of the State Commission appealed against and such of the documents as may be required to support grounds of objection mentioned in the memorandum.

(4) When the appeal is presented after the expiry of the period of limitation as specified in the Act, the memorandum shall be accompanied by an application supported by an affidavit setting forth the facts on which the appellant relies to satisfy the National Commission that he has sufficient cause for not preferring the appeal within the period of limitation.

(5) The appellant shall submit four copies or such number of copies of the memorandum to the Commission for official purpose.

(6) On the date of hearing or on any other day to which hearing may be adjourned, it shall be obligatory for the parties or their agents to appear before the National Commission. If appellant or his agent fails to appear on such date, the National Commission may in its discretion either dismiss the appeal or decide ex-parte on merits. If the respondent or his agent fails to appear on such date, the National Commission shall proceed ex-parte and shall decide the appeal on merits of the case.

(7) The appellant shall not, except by leave of the National Commission, urge or be heard in support of any ground of objection not set forth in the memorandum but the National Commission, in deciding the appeal, may not confine to the grounds of objection set forth in the memorandum:

*Provided that the Commission shall not rest its decision on any other ground other than those specified in the memorandum unless the party who may be affected thereby, has been given, an opportunity of being heard by the National Commission.*

(8) No adjournment shall ordinarily be granted by the National Commission, unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Commission. The National Commission may also adjourn the hearing of the appeal suo motu, on such terms as it may think fit and at any stage of the proceedings for reasons to be recorded in writing. The appeal shall be decided, as far as possible, within ninety days from the date of its admission. In the event of an appeal being disposed of after the period so specified, the National Commission shall record in writing the reasons of the same at the time of disposal of the said appeal.

(9) The order of the National Commission shall be communicated to the parties concerned free of cost.”

From the perusal of the above Rule, we find that it does not prescribe any provision for taking additional documents on record. The National Commission has framed the Consumer Protection Regulations 2005. Regulation 26 (1), which provides for the procedure to be followed by the Consumer Forum for ready reference is reproduced below:

*“26. Miscellaneous.-(1) In all proceedings before the Consumer Forum, endeavour shall be made by the parties and their counsel to avoid the use of provisions of Code of Civil Procedure, 1908 (5 of 1908).”*

*Provided that the provisions of the Code of Civil Procedure, 1908 may be applied which have been referred to in the Act or the Rules made there under.*

On a reading of the Regulation 21(1), it is clear that the Provisions of Code of Civil Procedure, 1908 has not been made applicable, except, those which have been referred to in the Act and Rules framed thereunder.

From the perusal of the Consumer Protection Act, 1986, as also the Consumer Protection Rules 1987, we find that the provisions of Order 41 Rule 27 of the Code of Civil Procedure, 1908 has not been made applicable in the proceedings under the Act. This question is of great importance as a large number of cases are pending before the District Consumer Forum, the State Commission as also before this Commission, where any of the parties may seek to bring additional documents on record which were not part of the record. We, therefore, deem it appropriate to refer this issue to the larger Bench of three Members to decide the question as to whether in Complaint Cases, Appeal Cases or the Revision Cases, the District Forum, the State Commission and/or the National Commission can exercise the powers of Order 41 Rule 27 of the Code of Civil Procedure, 1908 or the principles applicable and permit the parties to adduce/bring on record the additional documents or not.

Issue notice to the Respondents returnable for 22.07.2019. Dasti is also permitted.

Mr. Anand Shankar Jha, learned Counsel accepts notice on behalf of Respondent No.1. Notice need not be sent to Respondent No.1.

Notice be issued to the other Respondents.

Learned Counsel for the Petitioners sought an interim protection in the matter, as according to him, the Execution Cases have been filed and are listed for tomorrow, i.e. on 22.05.2019.

As we have referred the matter to larger Bench, in the interest of justice, stay is granted till 22.07.2019 at the first instance, in order to enable the Petitioners to deposit the entire amount as directed by the State Commission, before this Commission, within the aforesaid period.

If the amount is deposited, the interim order shall continue till further orders. However, if the amount is not deposited within the stipulated period, the interim order shall stand automatically vacated.

Order dasti.

.....J  
**R.K. AGRAWAL**  
**PRESIDENT**  
.....  
**M. SHREESHA**  
**MEMBER**