

File joint complaint to fast track your consumer case

A recent ruling of the Supreme Court will provide needed relief to people with a common grievance, say, against builders delaying the delivery of flats.

The apex court has ruled such flat buyers can get together and approach the National Consumer Disputes Redressal Commission (NCDRC) directly.

Consumer activists say the ruling will have a far reaching impact, beyond the real estate sector.

According to the Consumer Protection Act, the amount in a dispute decides the court a consumer may approach.

If it is up to Rs.20 lakh, a consumer has to file in the district forum.

If the amount involved is Rs.20 lakh-1 crore, the state forum.

Only for amounts above Rs. 1 crore may a consumer directly approach the NCDRC.

In recent times, however, home buyers have got together to fight against builders.

When many flat buyers get together, the amount involved rises above Rs.1 crore and they can therefore approach the NCDRC.

But, whether such cases were entertained depended on the opinion of individual courts, say lawyers.

Some judges allowed such cases to be filed if all the consumers had a common grievance.

Others did not on technical grounds.

The recent SC judgment, in a case involving Amrapali Sapphire Developers versus 43 flat buyers, which allowed consumers to approach the NCDRC, will leave no room for discretion.

“Since the ruling will be enforceable on all courts in India, whether to allow joint filing will not depend on the view of individual courts,” says Arun Saxena, president, International Consumer Rights Protection Council.

There are a few prerequisites for filing a case jointly.

“Consumers need to form a welfare association and register it with the appropriate authority,” points out Nishit Dhruva, managing partner, MDP & Partners. The most common form this can take is a society formed under the Societies Registration Act.

The recent judgment says only a recognised body is eligible to fight such cases.

Experts say filing similar cases separately makes the whole process tedious and inefficient.

Joint filing of cases will also make it economical for consumers to fight legal battles, as they will be able to share the costs.

According to advocate D Varadarajan, allowing people to go directly to the NCDRC will also mean faster resolution of cases.

Earlier, the whole process took a lot of time as there was scope for the opposite party to file an appeal in the state forum and again in the National Commission.

The ruling will have an impact even beyond the real estate sector.

For instance, if the smoke emitted by a factory affects an entire locality, people from that locality will be able to come together and file a case.

More clarity is needed for those filing a class action suit for common relief by coming together, says Dhruva.

According to interpretation of the current laws, even if one consumer comes to the court and says that he is happy and has no grievance, the suit would fall through.

The majority should not suffer because of a few. The courts need to decide on the proportion of consumers that can seek relief even though a few might not have any grievance, he says.

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