



2026:DHC:8087-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision : 15.09.2026*# **CNR No. DLHC010435212026**+ **LPA 727/2026 & CM APPL. 62395/2026**

CLOUD 9 PROJECTS PRIVATE LIMITEDAppellant

Through: Mr. Ankur Khandelwal, Mr. Chirag Sharma, Mr. Alok Nayak and Mr. Prashant Shivam, Advocates.

versus

ANUBHAV GUPTA AND ORSRespondents

Through: Mr. Uttam Datt, Senior Advocate with Ms. Sonakshi Singh, Mr. Naman Kumar and Ms. Katyayani Shekar, Advocates.

CORAM:**HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA****TEJAS KARIA, J. (ORAL)****CM APPL. Nos. 62396/2026 & 62397/2026 (Exemptions)**

1. Exemptions allowed, subject to all just exceptions.
2. The Applications stand disposed of.

CM APPL. 62398/2026 (Condonation of Delay)

3. This Application has been filed on behalf of the Appellant seeking condonation of delay of 03 days in re-filing the present Appeal.
4. Having heard learned Counsel for the Parties and perused the averments made in the Application, the same is allowed. The delay of 03 days in re-filing the present Appeal is hereby condoned.
5. Accordingly, the Application stands disposed of.

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Signed By: NEELAM
SHARMA
Signing Date: 21.09.2026
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6. The present *intra court* Appeal is directed against the order dated 14.07.2026 (“**Impugned Order**”) passed in W.P.(C) No. 8752/2026 (“**Writ Petition**”), whereby the learned Single Judge dismissed the Writ Petition filed by the Appellant holding that, since the Supreme Court was seized of the question of law as to whether an order passed by a single-member Bench of the learned National Consumer Redressal Commission (“**NCDRC**”) is vitiated by *coram non judice* does not oust the jurisdiction conferred upon this Court under Articles 226 and 227 of the Constitution of India, 1950 (“**Constitution**”) and that Section 67 of the Consumer Protection Act, 2019 (“**Act**”) provides a statutory appellate remedy, judicial propriety required the Court to refrain from examining the issue in the exercise of its writ jurisdiction. Aggrieved thereby, the Appellant has preferred the present Appeal.

7. Learned Counsel for the Appellant submitted that the learned Single Judge failed to appreciate that the mere pendency before the Supreme Court of the underlying question of law does not oust the jurisdiction of the Court to exercise the writ jurisdiction under the Constitution. Learned Counsel for the Appellant further submitted that the several petitions involving the very same question of law is already pending adjudication before a learned Single Judge of this Court in a batch of writ petitions. It was contended on behalf of the Appellant that the Writ Petition ought to have been tagged with the said batch rather than dismissing the same on the ground that the Supreme Court was already seized of the issue.

8. Learned Counsel for the Appellant also submitted that in one of such pending matters, namely, in W.P.(C) No. 7912/2023, the learned Single



Judge had, *vide* order dated 12.07.2023, taken cognizance of the issue of *coram non judice* and formed a *prima facie* view that members of the learned NCDRC could not adjudicate complaints while sitting singly.

9. It was further submitted on behalf of the Appellant that the availability of a statutory appeal under Section 67 of the Act does not, by itself, preclude the exercise of writ jurisdiction where the impugned order is a nullity in law or has been passed in violation of the principles of natural justice. In support of this submission, reliance was placed upon the decisions in *Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Ors.*, (1998) 8 SCC 1, and *Harbanslal Sahnia and Anr. v. Indian Oil Corpn. Ltd. and Ors.*, (2003) 2 SCC 107. It was further contended on behalf of the Appellant that the statutory remedy was, in any event, inefficacious in the present case, since the NCDRC order dated 07.05.2024 (“**NCDRC Order**”) had been passed *ex parte* by a Bench that was not duly constituted.

10. Learned Counsel for the Appellant further submitted that the learned Single Judge failed to consider that the Writ Petition raised several grounds, apart from *coram non judice*, which warranted independent examination. These included the alleged violation of *audi alteram partem*, inasmuch as the Appellant had been proceeded against *ex parte* despite findings of the learned NCDRC recording non-service; non-application of judicial mind in granting uniform relief to a heterogeneous group of Respondents who were differently situated in respect of their Apartment Buyer Agreements, payment status, and possession status; suppression of material facts by the Respondents, including their own payment defaults; errors of calculation in the NCDRC Order; and failure to consider undisputed *force majeure* events.



11. Learned Counsel for the Appellant further submitted that the dismissal of the Writ Petition had left the Appellant without an effective remedy against the orders dated 31.07.2025 and 29.10.2025 passed by the learned NCDRC, which threatened attachment of both its corporate assets and the personal assets of its Directors.

12. *Per contra*, learned Senior Counsel for the Respondents submitted that the learned Single Judge had rightly declined to examine the issue of *coram non judice*, since the identical question was directly pending before the Supreme Court in statutory appeals preferred under Section 67 of the Act. It was contended that Section 67 of the Act provides a specific and efficacious appellate remedy directly before the Supreme Court against orders of the learned NCDRC, and that the Appellant ought to have pursued that remedy rather than invoking the writ jurisdiction of this Court, particularly when the special statute itself designates the appellate forum.

13. Learned Senior Counsel for the Respondents further submitted that the grievance concerning *coram non judice* had already been considered and rejected by the learned NCDRC while deciding the Review Petition No. 14/2026. It was submitted on behalf of the Respondents that the correctness of that determination ought to be examined by the appellate forum prescribed under the Act and not through a fresh writ petition.

14. Learned Senior Counsel for the Respondents further submitted that the Writ Petition was rightly not tagged with the batch of petitions pending before the learned Single Judge, since those petitions remained pending and no final view had been expressed therein. It was contended that the grant of interim protection in certain matters did not confer upon the Appellant any right to similar relief, particularly as the Appellant had approached this



Court belatedly, after conclusion of the proceedings before the learned NCDRC and commencement of the execution proceedings.

15. Learned Senior Counsel for the Respondents further submitted that the additional grounds urged by the Appellant, including the alleged violation of natural justice, non-application of mind, suppression of material facts, and errors of calculation, involved disputed questions of fact requiring scrutiny of the record before the learned NCDRC. It was contended that such questions were more appropriately examined in the statutory appeal before the Supreme Court, which exercises wider appellate powers, rather than in the limited writ jurisdiction of this Court.

16. We have heard learned Counsel for the Appellant and learned Senior Counsel for the Respondents and have perused the material placed on record.

17. At the outset, it is necessary to consider whether the pendency before the Supreme Court of the issue of *coram non judice*, together with the availability of a statutory remedy under Section 67 of the Act, justified the learned Single Judge in declining to adjudicate the Writ Petition on merits.

18. It is well settled that the jurisdiction of this Court under Articles 226 and 227 of the Constitution is not automatically ousted merely because a similar question is pending consideration before the Supreme Court. The exercise of such jurisdiction is, however, discretionary, and the Court may, in an appropriate case, decline to determine an issue already under consideration by a higher forum, thereby avoiding the possibility of conflicting or premature findings.

19. In the present case, it is undisputed that the precise question raised by the Appellant as to whether an order passed by a single-member Bench of



the learned NCDRC is vitiated by *coram non judice* is pending before the Supreme Court in statutory appeals instituted under Section 67 of the Act. The Act is a special statute providing a specific appellate forum for correction of such errors. In these circumstances, we find no infirmity in the learned Single Judge having exercised judicial restraint and declined to render a parallel determination on the same question.

20. The decisions relied upon by the Appellant in *Whirlpool Corporation (supra)* and *Harbanslal Sahnia (supra)* elucidate the recognised exceptions to the rule of alternate remedy. Those decisions, however, did not concern a situation in which the identical question was already pending before the Supreme Court in a statutory appeal arising under the same enactment. In our considered view, the existence of a specific appellate remedy, coupled with the Supreme Court being seized of the identical question, materially distinguishes the present case from the principles enunciated in the aforesaid decisions.

21. As regards the submission that the Writ Petition ought to have been tagged with the batch of petitions pending before this Court, we note that those petitions remain pending and no final view has been expressed therein. The tagging of matters is ordinarily an issue of procedural convenience, and the absence of such tagging does not, by itself, vitiate the Impugned Order, particularly when an efficacious statutory remedy before the Supreme Court was available to the Appellant.

22. With respect to the finding recorded by the learned NCDRC in the order dated 06.02.2026 passed in the Review Petition No. 14/2026, we note that the plea of *coram non judice* was considered and rejected on the ground that the order dated 31.08.2023 had been passed by a duly constituted two-



member Bench. Whether that finding is correct, and whether the distinction drawn between the order dated 31.08.2023 and the NCDRC Order is sustainable in law, are matters falling squarely within the ambit of the statutory appeal under Section 67 of the Act.

23. In light of the foregoing, we are of the considered view that the learned Single Judge rightly refrained from adjudicating an issue already pending before the Supreme Court, particularly when the Appellant had an efficacious statutory remedy under Section 67 of the Act. We find no infirmity in the view of the learned Single Judge and no interference by this Court is warranted in the present Appeal.

24. We clarify that we have not expressed any opinion on the merits of the matter. The Appellant shall be at liberty to avail the alternative statutory remedy under Section 67 of the Act, if so advised.

25. Accordingly, the Appeal is dismissed. The pending Application also stands disposed of. There shall be no order as to costs.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

SEPTEMBER 15, 2026

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