

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

NEW DELHI

FIRST APPEAL NO. NC/FA/1030/2024

(Against the Order dated 16th December 2024 in Complaint CC/02/2024 of the State Consumer Disputes Redressal Commission Uttarakhand)

WITH

NC/IA/18344/2024 (STAY)

NC/IA/61/2025 (EXEMPTION FROM DIM DOCUMENTS)

NC/IA/18345/2024 (EXEMPTION FROM FILING THE CERTIFIED COPY)

JAGUAR LAND ROVER INDIA LTD.

PRESENT ADDRESS - THROUGH ITS DIRECTOR, 104B, PIRAMAL TOWER, PENINSULAR CORPORATE PARK, GANPATRAO KADAM MARG, , MUMBAI, MAHARASHTRA , OFF. SENAPATI BAPAT MARG, LOWER PARELWEST , MUMBAI,MAHARASHTRA.

.....Appellant(s)

Versus

M/S. EAPRO GLOBAL LIMITED

PRESENT ADDRESS - THROUGH ITS DIRECTOR, SRI JAGDEEP CHAUHAN, AT: KHASRA NO.106,107, SALEMPUR INDUSTRIAL AREA, ROORKEE, HARIDWAR, UTTARAKHAND
SHIVA MOTORCOPR JAGUAR LAND ROVER

PRESENT ADDRESS - THROUGH ITS CEO, A-108, SECTOR-5, , UTTAR PRADESH , NOIDA , GAUTAM BUDDHA NAGAR,UTTAR PRADESH.

.....Respondent(s)

BEFORE:

HON'BLE MR. JUSTICE A. P. SAHI , PRESIDENT

HON'BLE MR. BHARATKUMAR PANDYA , MEMBER

FOR THE APPELLANT:

MR SUKUMAR PATAJOSHI, SR. ADV MR SIDDESH, ADV MR RADHYAN, ADV MR UTKARSH KHANDELWAL, ADV MR MAHERMISTRY, ADV MS RAKSHA RAINA, ADV

FOR THE RESPONDENT:

MR KRISHANAN KUTTY, ADV FOR R-1 NONE FOR R-2

DATED: 17/11/2025

ORDER

The respondent no.1/complainant is stated to have purchased a "Defender Land Rover" vehicle marketed by the appellant and sold by the agency, the respondent no.2. The respondent no.1/complainant alleging deficiency in the vehicle filed CC/2/2024 before the SCDRC Uttarakhand, Dehradun (for short the State Commission). During the pendency of the complaint,

two interim orders were passed purportedly under Section 38(8) of the Consumer Protection Act, 2019 on 03.12.2024 and 16.12.2024. It is aggrieved by the said interim orders that the present appeal has been filed by the appellant contending that the orders are without jurisdiction, illegal and even otherwise unjust.

The appeal was admitted and notices were issued on 06.01.2025. While issuing notices, the facts giving rise to the passing of the impugned orders and the grounds for appeal were stated elaborately. An interim order was also passed issuing notice to the respondent no.1/complainant to reply to this appeal. The order dated 06.01.2025 is extracted hereunder:

“Admit. Issue notice.

Consumer Complainant No. 2 of 2024 was filed by Respondent No. – 1 alleging deficiencies and defects in a “Defender Land Rover vehicle” that has been purchased by Respondent No. – 1 from the dealer who is Respondent No. – 2.

The grievances of the Complainant have been set out in detail with which we are not concerned primarily at this stage in this Appeal.

The challenge raised is to the Orders dated 03.12.2024 and 16.12.2024 passed by the State Commission, Uttarakhand, Dehradun and it is urged by Mr. Sukumar Pattjoshi, learned Senior Counsel appearing on behalf of the Appellant that the Impugned Orders are an exercise in excess of jurisdiction and even otherwise the Complaint is still pending adjudication after exchange of pleadings, hence the orders were unwarranted. He therefore submits that the impugned interim orders transgress the exercise of jurisdiction by the State Commission by calling upon the Appellant’s officials to be present in person and then proceeding to pass an order virtually compelling the Appellant to settle or compromise the matter which is evident from a part of the Order dated 03.12.2024 and the Order in its entirety dated 16.12.2024.

He submits that it is the dispute of deficiency and unfair trade practice which has to be decided and the Complaint being still pending adjudication, where the Parties still have to file their evidences and the pleadings have to be considered and evaluated, the interim orders are virtually compelling the Appellant to engage itself in

a settlement which the Appellant is not prepared to concede. The compelling of the officials of the Appellant Company to appear in-person and then to impose a cost of Rs.1,00,000/- on a request for adjournment does not appear to be justified. It is evident that the next date fixed in the matter is 20.01.2025.

It is in this background that the present Appeal has been filed the challenge limited only to passing of the aforesaid interim orders.

Section 38(8) of the Consumer Protection Act, 2019 provides as under:

“ 38(8) Where during the pendency of any proceeding before the District Commission, if it appears necessary, it may pass such interim order as is just and proper in the facts and circumstances of the case.”

A perusal of the said provision indicates that the Commission is empowered to pass such interim Orders as is just and proper in the facts and circumstances of the case.

From a reading of the Complaint it appears that certain technical defects have also been pointed out bordering on manufacturing defects and for this allegations have been made and the applications have also been moved on behalf of the Complainant that seem to have been filed where upon the Order dated 03.12.2024 was passed allowing the Appellant to elucidate the said position on the said Applications.

Mr. Pattjoshi however submits that instead of adopting that course, the Impugned Orders tend to create a compulsive situation for settling the matter which is beyond the jurisdiction of the Commission while passing an interim Order as contemplated under Section 38(8) of the Consumer Protection Act, 2019.

Prima facie we find that for the purpose of conducting an enquiry into such matters, procedure on the admission of a Complaint has been prescribed under Section 38. For an expert opinion the provision is Section 38(2)(c) onwards. We do not find any such attempt having been made by the State Commission for examining any manufacturing defects through an expert.

An Order under Section 38(8) in our opinion at this stage has to be just and proper in order to adjudicate the controversy which is regarding the defect / deficiency in the vehicle about which the Complaint has been made. As noted above, the pleadings have been exchanged subject to its acceptance by the Commission or otherwise and therefore according to the learned Counsel for the Appellant the said stage has to be crossed instead of passing an interim order of the nature as impugned herein and compelling the Appellant to settle the matter.

We therefore prima facie find that the impugned orders do not seem to be either just or proper on the facts of the present case as they tend to proceed to compel a settlement of the claim as if the Appellant was under a compulsion to do so.

Accordingly, let the Respondents respond to this Appeal. List on 19.05.2025.

Until further orders of the Court operation of the interim orders dated 03.12.2024 and 16.12.2024, in Complaint No. 2 of 2024 shall remain stayed, leaving it open to the State Commission to proceed with the merits of the claim.”

Notices were issued to both the respondents but the show cause notice issued to the respondent no.1/complainant was returned back on account of incomplete address whereas notice to the respondent no.2/dealer stood served on 15.02.2025.

The order passed by this Commission was placed before the State Commission where the respondent no.1/complainant was already represented. The State Commission passed orders where the matter was proceeded with and dates were fixed on 20.01.2025, 03.02.2025, 18.03.2025 and 28.04.2025. All these orders were noticed by us and recorded on 19.05.2025 which is as follows:

“Heard Mr. Pattjoshi, learned senior counsel for the appellant.

After having perused the impugned orders dated 03.12.2024 and 16.12.2024,

we had admitted the appeal and passed interim orders on 10.01.2025.

It appears that the matter proceeded before the State Commission as we had kept it open to the State Commission to proceed with the merits of the complaint.

On 20.01.2025, the State Commission passed the following order:

“Today, learned counsel Sh. Ramesh Kumar Sharma on behalf of the complainant; learned counsel Sh. Deepak Ahluwalia on behalf of opposite party No. 1 as well as learned counsel Sh. Utkarsh Srivastava along with Ms. Kirti Grover on behalf of opposite party No. 2, have appeared.

Learned counsel for opposite party has filed certified copy of order dated 06.01.2025 passed by Hon’ble National Commission in First Appeal No. 1030 of 2024; Jaguar Land Rover India Limited Vs. M/s Eapro Global Limited and another. The same be kept on record.

We have heard learned counsel for the parties on the applications dated 04.10.2024 (Paper Nos. 366 to 367 & 368 to 369) moved on behalf of the complainant as well as objections thereto (Paper Nos. 384 to 384 to 385 & 386) filed on behalf of opposite party No. 1 as well as objections (Paper Nos. 375 to 377 and 380 to 382) filed on behalf of opposite party No. 2.

After hearing learned counsel for the parties and after perusing the aforesaid applications as well as objections, we are of the considered view that all the parties shall firstly submit their evidence in support of their pleadings and thereafter the aforesaid applications shall be disposed as per law.

Fix 03.02.2025 for filing evidence on behalf of the complainant.”

A perusal of the same indicates that the State Commission is proceeding with the matter and has also observed that the applications moved on behalf of the complainant and the objections thereto shall be dealt with after the parties have filed their evidence in support of the pleadings.

The case was listed thereafter on various dates and on 03.02.2025, the following order was passed:

“Today, learned counsel Sh. Ramesh Kumar Sharma on behalf of the complainant; learned counsel Sh. Deepak Ahluwalia on behalf of opposite party No. 1 as well as learned counsel Ms. Kirti Grover on behalf of opposite party No. 2, have appeared.

The complainant has filed the evidence, which is kept on record. A copy thereof has been received by learned counsel for opposite party Nos. 1 & 2.

Learned counsel for opposite party No. 2 has stated that the talks to settle the matter in terms of compromise are under way and internal discussion is going on between the authorised persons of the company, therefore, on the next date fixed, the opposite party No. 2 will inform about the settlement.

Fix 18.02.2025 for filing evidence on behalf of the opposite parties.”

It appears that the affidavit of evidence was filed on behalf of the opposite party as well which stands recorded in the order dated 18.03.2025, extracted herein under:

“Today, affidavit of evidence has been filed on behalf of opposite party No. 2, copy of which has been received by learned counsel for the complainant as well as learned counsel for opposite party No. 1. The same be kept on record. An adjournment application has been moved on behalf of opposite party No. 1, which is strongly opposed by learned counsel for the complainant.

In the interest of justice, adjournment application is allowed on costs of Rs. 5,000/-, which shall be paid by opposite party No. 1 to the

complainant, within a period of one week from today.

Fix 08.04.2025 for filing evidence on behalf of opposite party No. 1.”

Rejoinder was also filed by the complainant which stands recorded in the order dated 28.04.2025, which is extracted herein under:

“Today, rejoinder affidavit has been filed on behalf of the complainant against the affidavit of evidence filed on behalf of opposite party No. 1, which be kept on record.

Another rejoinder affidavit has been filed on behalf of the complainant against the affidavit of evidence filed on behalf of opposite party No. 2, which be also kept on record.

Fix 20.05.2025 for further orders.”

It is submitted by Mr. Pattjoshi that it is thus evident that the complainant/ respondent no. 1 is being regularly represented through his counsel/ in person before the State Commission, where the order passed by this Commission has already been placed on record.

The office report shows that the notice of the respondent no. 1 had been returned back with an endorsement of incomplete address.

In view of the fact of the pendency of these proceedings having been recorded by the State Commission, where the respondent no. 1 is already represented, no further notice is required to be served on the said respondent.

As a measure of last opportunity both the respondents are granted four weeks' time to respond to this appeal or else keeping in view the nature of the impugned order, the appeal is likely to be disposed of on the next date of hearing finally in terms of the interim order passed. A copy of this order shall be placed on record of the State Commission for information and intimation to the respondent.

List on 28.07.2025.”

Accordingly, a last opportunity was granted to the respondents to file a response to this appeal as it involved a very small legal issue as already recorded in the previous order dated 06.01.2025.

It is therefore evident from both the orders that the respondent no.1/complainant stood served and a copy of the order dated 19.05.2025 was also delivered to the respondents as reported by the Office on 23.07.2025.

On 28.07.2025 when the matter was listed this Commission directed the filing of written synopsis.

Today when the matter came up after lunch, Mr. Krishnan Kutty, Advocate, appeared on behalf of the respondent no.1/complainant and sought an adjournment and permission to appear as he had been engaged lately. In view of the status and nature of the litigation as well as the orders passed hereinabove, we declined to adjourn the matter and have proceeded to hear it finally.

Mr. Pattjoshi, learned Senior Counsel for the appellant, has urged that as a matter of fact all arguments on behalf of the appellant are already recorded in the order dated 06.01.2025 and the State Commission could not have proceeded to pass the orders dated 03.12.2024 and 16.12.2024 as an interim measure which virtually amounts to extending relief to the respondent no.1/complainant which could not have possibly been granted even at the final stage. Apart from this, such orders are neither just nor were expedient when the complaint itself is still pending decision on merits.

We entirely agree with the arguments advanced by the learned counsel for the appellant and we therefore confirm and make absolute our observations made in the order dated

06.01.2025 holding that the orders dated 03.12.2024 and 16.12.2024 are unsustainable for all the reasons stated therein and the submissions raised on behalf of the appellant.

Even otherwise, no fruitful purpose would be served by keeping the matter pending when the entire complaint is yet to be decided by the State Commission. It would be procrastinating the litigation further and it is for this reason that we have refused to accept the request for adjournment made by the learned counsel for the respondent no.1/complainant Mr. Kutty.

As already noted above, no one has appeared on behalf of the respondent no.2/dealer in spite of service.

For all the reasons given hereinabove, we set aside the orders dated 03.12.2024 and 16.12.2024.

The appeal is allowed and the matter is remitted back to the State Commission for proceeding with the complaint in accordance with law.

.....J
A. P. SAHI
PRESIDENT

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BHARATKUMAR PANDYA
MEMBER