

**Mere leasing or renting of a residential flat does not automatically exclude the owner from the definition of “consumer” under the Consumer Protection Act, 1986, unless it is proved that the dominant intention at the time of flat purchase was commercial**

The **Supreme Court** in the case of **Vinit Bahri vs MGF Developers [Civil Appeal No. 6588 of 2023] dated February 04, 2026**, has held that mere leasing or renting of a residential flat does not automatically exclude the owner from the definition of “consumer” under the Consumer Protection Act, 1986, unless it is proved that the dominant intention at the time of flat purchase was commercial. The Court clarified that the burden lies on the builder or service provider to prove that the dominant intention behind the purchase was commercial.

The Court observed that the onus of proving that the appellants fall within the exclusion clause of Section 2(1)(d) of the 1986 Act rests upon the respondents, and the respondents have failed to discharge this onus on a preponderance of probabilities. The determinative question is whether the dominant intention or dominant purpose behind purchasing the flat was to facilitate profit generation through commercial activity, and whether there exists a close and direct nexus between the purchase and such profit-generating activity.

The Court, therefore, explained that mere factum of leasing out the flat does not, by itself, demonstrate that the appellants purchased the property with the dominant purpose of engaging in commercial activity. The question of what constitutes ‘commercial purpose’ is a question of fact to be decided in the circumstances of each case based on the purpose to which the goods/properties were purchased.

The Court emphasized that the mere act of purchasing immovable property, even multiple units, cannot ipso facto attract the exclusion clause of Section 2(1)(d) of the 1986 Act unless and until it is proved that the dominant purpose behind such purchase was commercial in nature. In absence of such proof, the appellants cannot be excluded from the definition of ‘consumer’ under the 1986 Act.

From perusal of Section 2(1)(d) of the Consumer Protection Act, the Court noted that the term ‘consumer’ encompasses any person who buys goods or avails services for consideration, but excludes a person who obtains such goods for resale or for any commercial purpose. While the 1986 Act does not exhaustively define ‘commercial purpose’, though the Explanation to Section 2(1)(d) carves out an exception for self-employment and earning livelihood, the dominant intention or dominant purpose of the transaction is determinative of whether the purchaser falls within the exclusion clause.