

Auction Purchasers as Consumers: An Exploration of Rights and Remedies under Indian Consumer Law

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Abstract: This research paper examines the status of auction purchasers as consumers under Indian consumer law, focusing on Supreme Court cases and National Consumer Disputes Redressal Commission (NCDRC) decisions. The study aims to clarify the ambiguities surrounding the applicability of consumer protection laws to auction sales. Through a critical analysis of landmark judgments, this paper investigates: 1) The definition of "consumer" under the Consumer Protection Act, 2019. 2) The distinction between commercial and consumer auctions. 3) The rights and remedies available to auction purchasers. 4) The jurisdictional scope of consumer courts in auction - related disputes. The research reveals that Indian courts have adopted a nuanced approach, recognizing auction purchasers as consumers in certain circumstances. The paper identifies key factors influencing this determination, including: 1) Purpose of purchase (personal or commercial). 2) Nature of goods/services auctioned. 3) Presence of consumer - seller relationship. 4) The study contributes to the existing literature by: Providing an exhaustive review of relevant Supreme Court cases and NCDRC decisions. 1) Analysing the implications of recent amendments to the Consumer Protection Act. 2) Offering recommendations for clarifying the legal framework governing auction purchases. This research has significant implications for auctioneers, consumers, and businesses engaging in auction transactions, highlighting the need for transparency, fairness, and accountability in auction processes.

Keywords: Auction Purchasers, Consumer Protection, Supreme Court Cases, NCDRC Decisions, Indian Consumer Law.

1. Research Questions

- 1) Can auction purchasers be considered consumers under Indian consumer law?
- 2) What factors determine the applicability of consumer protection laws to auction sales?
- 3) How have Supreme Court cases and NCDRC decisions shaped the rights and remedies of auction purchasers?

2. Methodology

- 1) Doctrinal research: Analysing relevant statutes, case laws, and regulatory frameworks.
- 2) Qualitative analysis: Examining Supreme Court cases and NCDRC decisions.
- 3) Comparative study: Comparing Indian laws with international consumer protection frameworks.

3. Introduction

In India, the concept of consumer rights is primarily governed by the Consumer Protection Act, 2019 (CPA), which defines a "consumer" and provides protection to individuals against unfair trade practices, defective goods, and deficient services.¹ However, the question of whether an auction purchaser qualifies as a "consumer" has been subject to legal interpretation. This project explores the legal status of auction purchasers under the CPA and examines relevant case law to illustrate the principles established by the Supreme Court of India and the National Consumer Disputes Redressal Commission (NCDRC).

What is an auction?

An auction is a system of buying and selling goods or services by offering them for bidding - allowing people to bid and selling to the highest bidder.

The bidders compete against each other, with each subsequent bid being higher than the previous bid. Once an item is placed for sale, the auctioneer will start at a relatively low price to attract a large number of bidders.

The price increases each time someone makes a new, higher bid until finally, no other bidders are willing to offer more than the most recent bid, and the highest bidder takes the item. An auction is considered complete when the vendor accepts the highest bid offered and the buyer pays for the goods or services and takes possession of them.²

Legal Framework

Who is a Consumer?

According to the section 2 (7), Consumer Protection Act, 2019, a "Consumer" means any person who buys goods or hires any service for a consideration which has been paid, or promised, or partly paid and partly promised, or under any system of deferred payment, and includes any user of such goods other than the person who buys such goods for consideration. It does not include a person who obtains such goods for resale or for any commercial purpose. Commercial purpose does not include use by a consumer of goods bought and used exclusively for the purpose of earning his or her livelihood, by means of self - employment. Thus, a widow who buys a sewing machine or small cottage industrialists who buy equipment for the purpose of earning a living are

¹ <https://blog.ipleaders.in/consumer-protection-act-2019-2/>

² <https://corporatefinanceinstitute.com/resources/management/auction/>

consumers according to the recent amendment. The main characteristics of the definition of consumer can be stated as follows:

- 1) A consumer is one who consumes either goods or hires or avails of any services.
- 2) The word 'Consumer' is defined separately for the purpose of goods and services.
- 3) For the purpose of goods, a consumer means a person belonging to any of the following two categories:
 - a) One who buys any goods for a consideration.
 - b) One who uses such goods with the approval of the buyer.
- 4) For the purpose of services, a consumer means a person belonging to any one of the following:
 - a) One who hires any service or services for a consideration.
 - b) One who is beneficiary of such service.
- 5) A person who buys goods for commercial purposes is not a consumer. In other words, only a person who buys goods for private use or conception only is a consumer.³

However, this excludes individuals who obtain goods for resale or for any commercial purpose. The Act aims to protect the interests of individuals who enter into transactions for personal use and consumption, rather than for business or profit motives.

Auction Purchasers

The question of whether an auction purchaser qualifies as a "consumer" depends on the interpretation of the transaction involved. In general, an auction sale is a method of selling property, typically under forced or distressed conditions, such as recovery of debts by financial institutions. Auction purchasers are often argued to lack the "consumer" status as they participate in sales where goods are provided "as is," without the typical assurances or warranties associated with consumer transactions.

Rights of auction purchaser under SARFAESI Act, 2002

The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 was enacted to enable banks and financial institutions to recover their loans and dues from borrowers by enforcing the security interest created in their favor. The Act empowers banks and financial institutions to take possession of the secured assets and sell them through public auction to recover the dues.

Section 13 (8) of the SARFAESI Act is a critical provision that relates to the borrower's right to redeem their property, and it has certain implications when it comes to the timing of the sale of the secured assets

The auction purchaser, who buys the property at the auction, has certain rights under the Act.

- 1) **Right to Obtain Delivery of Possession:** The auction purchaser has the right to obtain delivery of possession

of the property from the borrower. If the borrower refuses to hand over possession, the auction purchaser can seek the assistance of the District Magistrate or the Chief Metropolitan Magistrate, as the case may be, to take possession of the property.

- 2) **Right to Inspect the Property:** The auction purchaser has the right to inspect the property before the auction. This is important to ensure that the property is in good condition and free from encumbrances. The auction purchaser should exercise due diligence before participating in the auction.
- 3) **Right to Receive Marketable Title:** The auction purchaser has the right to receive marketable title to the property. The title should be free from any encumbrances or defects. The auction purchaser should ensure that all necessary documents and approvals are in place before taking possession of the property.
- 4) **Right to Claim Compensation:** If the auction purchaser suffers any loss or damage due to the wrongful possession or dispossession of the property, they have the right to claim compensation from the borrower. The auction purchaser can also claim compensation from the secured creditor if the creditor has failed to disclose any material defects in the property.
- 5) **Right to Seek Redressal:** If the auction purchaser faces any issues or disputes with respect to the auction or the property, they have the right to seek redressal. The auction purchaser can approach the Debts Recovery Tribunal (DRT) or the High Court, depending on the amount involved.³

Auction Theory

In auction theory bidders are conceptualized as highly rational individuals. They are assumed to resalable each other closely regarding valuations, resources, and behaviour. Bidder homogeneity is modelled by drawing the valuations on which bids are based from a common distribution without revealing them to the other bidders.

- In the simplest auction model valuations are independent of others' estimates and are determined by individual preferences. Situations in which this *independent private values model* applies are auctions for collectibles, for rare or unique items or any good that is intended for personal use only, so that the price can only depend on subjective utility.
- If on the other hand estimates are correlated because the bidders assume a common value to the good being auctioned, the *common values model* applies. This is the case for resaleable goods, or any consumer good with a listed price or store price that is common knowledge. Bids may still differ because this common value often is unknown and has to be estimated. Below table provides an overview of both basic models.⁴

Model	independent Private Values	Common Values
Valuation basis	Individual, Subjectivity Utility, ex ante known	Collective, Objective Value, ex ante unknown

³<https://www.eauctionsindia.com/blog-details/rights-of-auction-purchaser-under-sarfaesi-act#:~:text=One%20of%20the%20key%20provisions%20of%20the%20Act,the%20auction%2C%20has%20certain%20rights%20under%20the%20Act.>

⁴ Möllenberg, Antje (2003) : Internet auctions in marketing: The consumer perspective, working paper, No. 03/02, ISBN 3933628482, Technische Universität Braunschweig, Institute for Marketing, Braunschweig

Interdependence of valuations	Independent preferences	Estimates of the objective value intercorrelated
Source of risk	Preference Uncertainty	Quality Uncertainty
Bids signaling	Other bidders' preferences	Unknown true value
Applicability	Rare or unique items personal use	Consumer good with listed price items for resale
Example	e.g. Collectibles	e.g. Licenses, consumer goods

Key Considerations

Key issues that arise in determining the consumer status of an auction purchaser include:

- **Nature of the Transaction:** Whether it involves a contractual relationship typical of consumer sales.
- **Purpose of Purchase:** Whether the purchase is for personal use or commercial gain.
- **Consumer Rights:** Whether the auction purchaser is entitled to protections under the CPA for defects in goods or deficiency in services.

Judicial Interpretation: the interpretation of auction purchasers as consumers

Supreme Court Cases:

Kavita Ahuja v. Shipra Estate Ltd. & Jai Krishna Estate Developers Pvt. Ltd. (2016)

In this case, the Supreme Court discussed the applicability of the Consumer Protection Act to real estate transactions involving auctioned properties. The court observed that if the auction purchase is for personal use and the seller provides specific assurances regarding the quality or condition of the property, the purchaser may qualify as a consumer.

Punjab Urban Planning & Development Authority (PUDA) v. Vidya Chetal (2019):

This case concerned the auction of a plot of land by PUDA. The Supreme Court held that the purchaser in such an auction sale could claim consumer status if deficiencies were found in the property or service as per the contract. The court affirmed that auction purchasers could be considered consumers if they purchased property for personal use.⁵

Urban Improvement Trust Vs Magha Ram, 2023 (NCDRC Delhi)

while relying upon the Judgment of Supreme Court it was held that auction purchaser could not be held to be a 'consumer'.⁶

Rohit Chaudhary v. Vipul Ltd, 2023

The Court noted that the NCDRC at the outset considered the question as to whether the appellants are "Consumer" and answered in the negative. It has been held that the appellants would not be entitled to seek redressal of their grievance under the provisions of the Act. The Commission has arrived at the conclusion that the complainant was running a dealership business of Reliance Industries for their livelihood, and they are also engaged in the business of investment in property. Hence, the commercial space booked by the

complainants was for earning profit and not for the purpose of earning a livelihood by self - employment. Thus, the appellants are not consumers as defined under Section 2 (1) (d) of the Act.⁷

NCDRC Cases:

AVM J. Rajendra member of the National Consumer Disputes Redressal Commission held "*public auction purchaser is not a consumer; and the Opposite Party is not a service provider.*"⁸: NCDRC Dismisses Petition Against Urban Improvement Trust, Bikaner.

Haryana Urban Development Authority (HUDA) v. G. D. Gupta, 2023

In this case, the NCDRC held that an auction purchaser could be considered a consumer if the sale involved specific representations regarding the nature of the property and these representations were found to be misleading or inaccurate.⁹

Fortune Infrastructure v. Trevor D'Lima & Ors, 2018

The NCDRC ruled that purchasers in auction sales conducted by real estate developers or government bodies could claim consumer rights if they could prove the purchase was for personal use. The judgment emphasized that the nature of the sale alone does not exclude the buyer from consumer protections if the intent of use aligns with personal consumption.¹⁰

Principles Established

From these cases, certain principles regarding auction purchasers as consumers emerge:

- **Personal Use Requirement:** Auction purchasers may be considered consumers if the property is intended for personal or residential use, rather than for commercial or profit - oriented activities.
- **Assurance by the Seller:** If the seller or auctioning entity provides any form of assurance or warranty regarding the quality, condition, or other aspects of the auctioned property, the buyer may be entitled to consumer protection.
- **Contractual Nature of the Sale:** Where the auction sale includes a contract with implied terms of quality or service, the buyer may pursue remedies under the CPA if these terms are breached.
- **Judicial Discretion:** The court's discretion plays a significant role in determining whether the intent and purpose of the auction purchase meet the requirements for consumer status.

⁵ <https://indiankanoon.org/doc/93820872/>

⁶ <https://taxguru.in/corporate-law/auction-purchaser-held-consumer-consumer-protection-act.html>

⁷ Rohit Chaudhary v. Vipul Ltd., 2023 SCC OnLine SC 1131, decided on 06-09-2023.

⁸ <https://www.livellaw.in/consumer-cases/ncdrc-transaction-public-auction-purchaser-consumer-service-provider-258712>

⁹ <https://indiankanoon.org/doc/160597497/>

¹⁰ <https://kmpnlaw.com/fortune-infrastructure-vs-trevor-dlima-2018-5-scc-442/#:~:text=Fortune%20Infrastructure%20vs.%20Trevor%20D%20E2%80%99Lima.%20%282018%29%205%20SCC,market%20value%20of%20similar%20flats%20in%20the%20vicinity.>

4. Conclusion

The status of an auction purchaser as a "consumer" under the Consumer Protection Act remains nuanced and is determined by factors such as the nature of the transaction, the buyer's intent, and any contractual assurances provided by the seller. While auction sales often involve a "buyer beware" approach, judicial decisions have acknowledged that auction purchasers, particularly those with personal use intentions, may be entitled to consumer rights and protections. The Supreme Court and NCDRC rulings underscore the evolving understanding of consumer status in the context of auction sales, balancing the interests of individual purchasers against the traditional limitations associated with auction transactions.

This research concludes that while auction purchasers are generally outside the ambit of consumer protections due to the nature of auction sales, certain transactions—particularly those for personal use with explicit warranties—may qualify under the CPA, marking a significant step in consumer rights jurisprudence.

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