

**BEFORE THE CONSUMER DISPUTES REDRESSAL FORUM  
ERNAKULAM**

**Complaint Case No. CC/22/438  
( Date of Filing : 29 Sep 2022 )**

1. NAZEER V.A  
VETTIYATTIL HOUSE THERMALA SABARIPADAM  
ROAD, WEST VENGOLA 683556

.....Complainant(s)

Versus

1. JASIR  
KUNNATH HOUSE MH KAVALA ALA ASHAR ROAD,  
PONJASSERY 683547

.....Opp.Party(s)

**BEFORE:**

**HON'BLE MR. D.B BINU PRESIDENT  
HON'BLE MR. RAMACHANDRAN .V MEMBER  
HON'BLE MRS. SREEVIDHIA T.N MEMBER**

**PRESENT:**

**Dated : 29 Aug 2024**

**Final Order / Judgement**

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION ERNAKULAM**

**Dated this the 29<sup>th</sup> day of August, 2024**

Filed on: 29/09/2022

**PRESENT**

Shri.D.B.Binu

President

Shri.V.Ramachandran

Member Smt.Sreevidhia.T.N

Member

**C.C. NO. 438/2022**

**COMPLAINANT**

Nazeer V.A., Vettiyattil House, West Vengola P.O., Perumbavoor 683556.

**Vs.**

**OPPOSITE PARTY**

Jasir, S/o. Ibrahim, Kunnath (Mucheth) House, MH Kavala, Al Ashar Road, Ponjassery P.O., Perumbavoor 683547.

**FINAL ORDER****Sreevidhia T.N., Member:****1. A brief statement of facts of this complaint is as stated below:**

The complainant had entrusted his LG Stylus-3 Model mobile phone to the opposite party's service centre located at Ponjassery, Perumbavoor for repair works. The opposite party had closed the office after the entrustment of the phone. So the complainant has got no information regarding the repair of the phone from the opposite party. Then the complainant went to the opposite party's showroom and the shop was closed, he told to the nearest shop owners that he will take legal actions against the opposite party for the deficiency in service from their part. Then the opposite party had come to the house of the complainant and told to the complainant the phone was not repaired so far and the opposite party had returned the phone to the complainant in a well packed condition. When the complainant had wrapped the cover he was utterly shocked. The display of the phone became totally damaged. Hence the complainant had approached the Commission seeking orders directing the opposite party to pay Rs.10,000/- to the complainant along with compensation of Rs.15,000/- for mental agony, pain and other hardships suffered by the complainant.

**2. Notice**

Notice was issued to the opposite party from this Commission on 12/10/2022 and the said notice seen served on 20/10/2022. Opposite party not appeared before the Commission and version also not seen filed by the opposite party. Hence opposite party was set as ex-parte.

**3. Evidence**

Evidence in this case consists of the documentary evidence filed by the complainant which was marked as Exbt. A1. Proof affidavit also filed by the complainant.

Exbt. A1: Picture of the damaged phone

**4. The issues came up for consideration in this case are as follows.**

1. Whether any deficiency in service or unfair trade practice is proved from the side of the opposite party towards the complainant?
2. If so, reliefs and costs?

The case of the complainant that the complainant had entrusted his mobile phone to the opposite party for some repair works and the phone was returned to the complainant without making the sufficient repair works. The opposite party had not repaired the phone. The phone was also seen in a damaged condition. We have thoroughly verified the facts of the case with the documentary evidence filed by the complainant. The complainant had produced only one document which is not sufficient to prove the argument of the complainant.

In the case of SGS India Ltd. Vs. Dolphin International Ltd. 2021 AIR SC 4849 held that it is the complainant who had approached the Commission therefore, without any proof of deficiency, the opposite party can't be held responsible for deficiency in service.

The initial onus to prove any deficiency of service or manufacturing defect of the phone is upon the complainant who alleges it. The complainant has failed to prove his allegations against the opposite party. The complainant has failed to produce sufficient documents and hence Issue No. (1) and (2) are found not in favour of the complainant since there is no merit in the case. The complaint is liable to be dismissed and is accordingly dismissed.

Pronounced in the Open Commission on this the 29<sup>th</sup> day of August, 2024.

Sd/-

Sreevidhia.T.N, Member

Sd/-

D.B.Binu, President

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V.Ramachandran, Member

Forwarded/By Order

Assistant Registrar

### **Appendix**

#### **Complainant's Evidence**

Exbt. A1: Picture of the damaged phone

#### **Opposite party's Exhibits**

Nil

Despatch date:

By hand: By post

kp/

**CC No. 438/2022**

**Order Date: 29/08/2024**

**[HON'BLE MR. D.B BINU]  
PRESIDENT**

**[HON'BLE MR. RAMACHANDRAN .V]  
MEMBER**

**[HON'BLE MRS. SREEVIDHIA T.N]  
MEMBER**