

BEFORE THE DISTRICT CONSUMERS DISPUTES REDRESSAL  
COMMISSION-1, VISAKHAPATNAM : AP



PRESENT: Smt.Dr.Gudla Taruja B.Com., M.A (IRSA), LL.M., Ph.D (Law)  
President

Sri Varri Krishna Murthy M.A., M.B.A., A.I.I.I.,  
(Associatehip in Insurance Institute of India)  
Male Member

Smt. Rahimunnisa Begum, M.Com, LL.M, M.HRM (Ph.D),  
Woman Member

Monday, the 20<sup>th</sup> day of November, 2023

Consumer Complaint No: 31/2023

Between:

Soornapudi Sridevi, W/o Mahesh, aged 51 years, Housewife, residing at  
D.No.65-1-126/7, Sriharipuram, Visakhapatnam-530011.

... Complainant

And:

1. Reliance Retail Limited, Reliance Digital, represented by its Authorized Signatory, # GF, FF, SF, Madhurawada, Chinagadili, Shifting from R804-Vizag Digital DC, Sy.S-60/345-61/345-62, Ward 58, Fekkerthekya, Gajuwaka, Visakhapatnam.
2. R.R.Services represented by its Authorized Signatory, LIG-339, D.No.24-11-10, VUDA Colony, Phase-2, Pedagantyada, Gajuwaka, Visakhapatnam.
3. Whirlpool of India Limited, Corporate Office, represented by its Authorized Signatory, Plot No.40, Sector-44, Gurgon-122002.

... Opposite Parties

This case came for final hearing on 06-11-2023 in the presence of Complainant in person and Sri M.Hari Mehar, Advocate for 1<sup>st</sup> Opposite Party, Sri S.Barani, Advocate for 3<sup>rd</sup> Opposite Party and 2<sup>nd</sup> Opposite Party called absent and having stood over till this date, the Commission delivered the following:

: ORDER :

(Per Smt.Dr.Gudla Taruja, President on behalf of the Bench)

1. The Complaint filed under section 35 of C.P. Act praying this Commission to direct the Opposite Parties to refund the purchase price of the Refrigerator besides Rs.1,50,000/- each towards compensation for mental agony and deficiency of service and costs of Rs.10,000/- with the following averments.

2. The Complainant purchased Whirlpool Refrigerator on 09.09.2022 from OP-1 paying an amount of Rs.28,079/- manufactured by OP-3. Ever since the date of installation the product started giving troubles. Since the product is covered by warranty of 10 years provided by OP-3, the Complainant lodged

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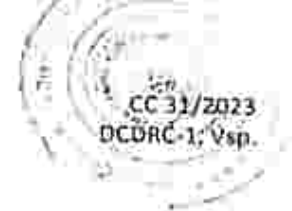
complaint with OP-1 about defects in the product delivered to the Complainant. OP-1 deputed technician to carryout the repairs but in vain. As such the Complainant lodged complaint through Customer Care number provided by OP-3. The service engineer visited the residence of the complainant but he could not rectify the defects surfaced in the Refrigerator. On 10.11.2022 OP-2 sent a mail stating that the request had been allocated to Branch and on 05.12.2022 sent another message that "your request is pending - spare part awaited". Even after lapse of 6 months of time the problem is not rectified by the Opposite Parties. As the product has inherent manufacturing defects which was supplied to the Complainant suppressing the fact, the services of Opposite Parties amounts to deficient in nature. Hence approached the Commission seeking redress.

3. OP-1 filed Counter denying the allegations made in the complaint inter alia contending that OP-1 had nothing to do with the warranty terms and conditions given by OP-3 as the warranty is only the contract between the Complainant and OP-3 manufacturer. There is no cause of action for the present complaint to seek any relief against OP-1, and if any order is passed against OP-1 it is nothing but injustice since OP-1 is not negligent nor did any deficiency nor did anything that cause loss to the Complainant. OP-1 being a retailer holds only authority to sell the products supplied by OP-3. OP-1 being agent of OP-3 may disclose the name of the principle i.e. OP-3, the liability of OP-1 is protected u/s 220 of Indian Contract Act. OP-3 offered the Complainant through OP-2 to replace the product with new one but the Complainant is demanding an additional amount of Rs.10,000/- for unjust enrichment. Therefore, there is no deficiency of service on part of OP and hence prayed for dismissal of the Complaint.

4. OP-2 appeared in person but remained silent.

5. OP-3 filed Written Version contending that as per the averments there is no manufacturing defect in the Refrigerator and the Complainant has not filed any documentary proof, or report from the approved laboratory to show that the product manufactured by OP-3 suffers from the manufacturing defect in the absence of which no liability can be fastened to OP-3. OP-3 never entitled to provide its after sale services to its customers. If the customer still chooses to take service from OP-3 then it has to be a paid service. There has been a contract between OP-1 & 3. In pursuance of the contract OP-1 will provide after sale service to all the products manufactured by OP-3 when sold through

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its outlet till warranty period. Therefore, there is no deficiency of service on part of OP-3 and it is for the OP-1 to redress the grievance of Complainant. Hence prayed for dismissal.

6. During the course of enquiry, the Complainant filed Evidence Affidavit and got marked Exs.A1 to A4 on behalf of OP the authorized signatory filed Evidence Affidavit and got marked Exs.B1 & B2. OP-3 filed Evidence Affidavit and no documents were marked on its behalf. Written Arguments filed by the Complainant and Opposite Parties reiterating their versions. Heard both parties.

7. Based on the rival contentions, the points that would arise for consideration are as follows:

- 1) Whether there is any deficiency of service on part of the Opposite Parties?
- 2) Whether the Complainant is entitled for the reliefs claimed in the Complaint?
- 3) To what relief?

Point Nos.1 to 3 :

8. Perused the record. It is admitted case of either parties to the lis that the Complainant purchased Whirlpool Refrigerator from OP-1 on 9.9.2022 paying an amount of Rs.28,079/- under Ex.A1 & A2 which covers the warranty of 10 years as per Ex.A3. The product supplied to Complainant suffers from defects which surfaced within short time of purchase as is evident from Ex.A4 the mails exchanged between the parties. But the defects were not rectified hence the complainant sought redress before this Commission contending that the services of OP are deficient in nature.

9. On the other hand OP-1 contended that they are only retailers and they are protected u/s 220 of Indian Contract Act. OP-1 has nothing to do with the manufacturing defect and it is for the OP-3 to rectify the defects if any surfaced during the period of warranty in terms of the warranty conditions and in fact OP-3 offered to replace with new product in the place of old one. But the Complainant is insisting for payment of additional amount whereas OP-3's contention is that there is a contractual agreement between OP-1 & 2 . In terms of the agreement the retailer of OP-1 agreed to provide after sales service to all the products manufactured by OP-3 and sold through its outlet till warranty period. This fact is very much in the knowledge of the Complainant as

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such no complaint is registered through Toll free customer care number of OP-3. It is evident from the documents placed on record and the admissions made by Opposite Parties the product supplied to the Complainant suffers from inherent defects which was not rectified either by OP-1 retailer or Opposite Parties 2 & 3 service providers and manufacturers of the product. They are indulging in blame throw game against each other. The contention of OP-1 is that being a retailer they have nothing to do with the manufacturing defects surfaced in the product supplied to the Complainant and it is for the manufacturer to provide after sales services during warranty period, whereas OP-3 contending there was an agreement with the retailer OP-1 and in terms of the agreement OP-1 agreed to provide after sale service to the product sold through their outlet during the period of warranty. But the so called agreement was not exhibited either by OP-1 or OP-3. However, OP-1 placed on record a mail purported to have been sent by OP-3 informing that OP-3 offered product replacement but customer is asking for additional compensation of Rs.10,000/-. The mail of Ex.A2 goes to show that the Opposite Parties accepting their liability that the product supplied by the Complainant suffers from manufacturing defect and there is no need for the complainant to place on record any additional records secured from the export to show that the product suffers from manufacturing defect as contended by Opposite Parties. When the Opposite Parties admitting their liability of manufacturing defects in the product, Opposite Parties insisted of settling the issue with the customer procrastinated the issue on some pretext or the other as is evident from Ex.A4 mails. At this juncture it is relevant to mention that OP-1 vehemently contended that they are protected u/s 230 of Indian Contract Act placing reliance on the judgement of Hon'ble Supreme Court of India in SLP (C) no.19515/2004 between Prem Nath Motors Ltd. Vs Anurag Mittal. We have meticulously gone through the judgement, the ratio laid down there in has no application to the facts in hand since OP3 specifically contended there is a contractual agreement between OP-1 & 3 and in terms of contract OP-1 agreed to provide after sales service to the customer for the product sold through their retail store during the warranty period. If such be the case OP-1 cannot take shelter provided u/s 230 of Indian Contract Act. Needless to say that Opposite Parties 1 to 3 resorted to harassment throwing blame against each other without providing after sale service during the warranty period which leads the Complainant to untold mental agony. With the above observations, we hold that the services of Opposite Parties 1 to 3 are deficient in nature. As a

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consequence the Complainant is entitled for either refund of the amount or replacement with new refrigerator besides compensation of Rs.50,000/- towards mental agony and deficiency of service with costs of Rs.10,000/-.

We answered the points accordingly.

10. In the result the Complaint is allowed in part directing the Opposite Parties 1 to 3 to refund the purchase price of Rs.28,079/- (Rupees Twenty eight thousand and seventy nine only) with interest @ 9% p.a. from the date of purchase i.e. 9.9.2022 till the date of realization or if the complainant chooses to opt for replacement with new refrigerator of the same configuration, Opposite Parties shall replace with new product of her choice. Opposite Parties are further directed to pay Rs.50,000/- (Rupees Fifty thousand only) towards compensation for mental agony and deficiency of service and Rs.10,000/- (Rupees Ten thousand only) towards costs. Rest of the claim is dismissed.

Time for compliance is one month from the date of receipt of this Order.

Dictated to the Shorthand Writer, transcribed by him, corrected and pronounced by us in the open Commission on this the 20<sup>th</sup> day of November, 2023.

*Rabimunisa Begum*  
Woman Member

*[Signature]*  
Male Member

*[Signature]*  
President

APPENDIX OF EVIDENCE

Exhibits Marked for the Complainant:

<u>Doc.No.</u>	<u>Date</u>	<u>Description</u>	<u>Remarks</u>
Ex.A1	09.09.2022	Bill issued by the 1 <sup>st</sup> Opposite Party	Original
Ex.A2	10.09.2022	Delivery Note 7028676708	Original
Ex.A3	09.09.2022	User manual including Warranty card	Original
Ex.A4	--	Email correspondence	Online copy

Exhibits Marked for the Opposite Parties:

<u>Doc.No.</u>	<u>Date</u>	<u>Description</u>	<u>Remarks</u>
Ex.B1	3.3.2023	Letter of authority	Certified true copy
Ex.B2	5.4.2023	Mail sent by OP-3 through OP-2	Certified true copy

*Rabimunisa Begum*  
Woman Member

*[Signature]*  
Male Member

*[Signature]*  
President

11/12/23

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Comp.  
11/12/23