

**Date of filing: 20.07.2021**  
**Date of Disposal: 29.05.2024**

**BEFORE THE III ADDITIONAL BANGALORE URBAN  
DISTRICT CONSUMER DISPUTES REDRESSAL  
COMMISSION, BENGALURU - 560 027.**

**DATED THIS THE 29<sup>th</sup> DAY OF MAY 2024**

**CONSUMER COMPLAINT NO.326/2021**

**PRESENT:**

**SRI. SHIVARAMA K : PRESIDENT**  
**SRI. CHANDRASHEKAR S NOOLA : MEMBER**  
**SMT. REKHA SAYANNAVAR : MEMBER**

Sri. P.N.Raghavendra Rao,  
S/o.Nageshwara Rao,  
Aged about 36 years,  
No, "A" Block,  
Plot form road,  
Seshadripuram,  
Bengaluru-560020.  
(Sri. Hemantha K.M, Advocate)

.....

**COMPLAINANT**

V/s



1. Xiaomi Technology India Pvt. Ltd.,  
A Company is registered under companies Act  
Tower 1, 8<sup>th</sup> Floor,  
Umiya Business Bay  
Marathahalli-Sarjapur, Outer Ring Road,  
Bangalore-560103, Karnataka, India.  
Represented by its Authorized Officer
  
2. Amazon Seller Services Private Limited  
A Company is registered under companies Act  
Office address No.26/1, Dr. Rajkumar Road,  
Brigade Gateway, 8<sup>th</sup> Floor,  
Malleshwaram (W), Bangalore-560055.  
Karnataka, India  
Represented by its Authorized Officer  
(Sri. C. Shivakumar, Advocate)
  
3. M/s. Darshita Aashiyana Pvt Ltd  
A Company is registered under companies Act  
Survey No.38/2, 39 and 40  
Jadigenahalli Hobli, Kacharakannahalli Village,  
Hoskote Taluk, Bengaluru-562114.  
Rep by its Authorized Officer.  
(Exparty)

..... **OPPOSITE PARTIES**

\*\*\*\*\*

**// JUDGEMENT //**

**BY SRI. CHANDRASHEKAR S NOOLA, MEMBER**

This complaint is filed by the complainant under section 35 of the Consumer Protection Act 2019. The complainant prays this commission to direct the opposite party to pay



Rs.10,499/- with 18% interest per annum from the date of invoice to till the date of realization and also request this commission for compensation of Rs.5,00,000/-.

**The brief facts of the case are as follows:**

In this case the complainant Sri. P.N.RaghavendraRao filed complaint against opposite party No.1 Xiomi Technology India Pvt Ltd, The opposite party No.2 as Amazon Seller Services Private Limited and impleaded the 3<sup>rd</sup> opposite party as M/s. DarshitaAashiyana Private Ltd by way of amendment.

2. The complainant purchased mobile phone Redmi Note 8 from the opposite party No. 2 through online for Rs10,499/-. The mobile phone was delivered to the complainant on 20.03.2020 and the payment was made on 18.03.2020. The complainant states that the mobile phone was having many issues such as battery heating up, hanging, speaker issue etc., which was brought to the notice of the 2<sup>nd</sup> opposite party by calling several times. The opposite party No. 2 directed the complainant to approach the opposite party No. 1.

3. There was lockdown at that point of time due to Covid. Hence, he could not give the mobile phone for repair which was having warranty period of one year from the date of purchase. The complainant states that after the lockdown period is over, he gave that mobile phone to the service centre of the opposite party No. 1 on 12.01.2021 but despite

servicing, the same problems was persisted. Again on 26.02.2021, the complainant gave the mobile phone for service for the third time. The service centre said that water has entered inside the mobile phone which does not come under the warranty, and he demanded Rs.7,000/- to rectify the problem. The complainant issued a legal notice to the opposite parties on 22.03.2021. The notice to the opposite party No 2 was served on 23.03.2021. The opposite party No. 2 gave a vague reply to the legal notice rejecting the claim on 13.04.2021.

4. The opposite party in its version says that this complaint is not maintainable against opposite party No. 2 and states that the complainant has purchased the mobile phone from third party seller i.e. DarshithaAshianaPvt. Ltd. on the e-commerce marketplace and not from opposite party No. 2 in this case. The opposite party no 2 contends that in this case the manufacturer is Xiaomi Technology India Pvt. Ltd. and is rightly impleaded as the opposite party No. 1 whereas the complainant has wrongly impleaded the opposite party No. 2 (Amazon Seller Services Pvt. Ltd or ASSPL).

5. The opposite party No. 2 states that the transaction was a bi-party agreement between the buyer and the independent third-party seller listed on the e-commerce marketplace operated by ASSPL. All the liabilities towards product quality, safety, price, delivery/non-delivery are responsibility of the 3<sup>rd</sup> opposite party and opposite party no 2 is merely e-commerce marketplace. Any manufacturing



defect are to be addressed to the opposite party no 1 who is the manufacturer of the product. The opposite party raises the question of that no expert opinion regarding defects in the product was submitted by the complainant. The opposite party No.2 submitted various citations to substantiate his case. The opposite party No.1 & 3 did not file version despite given opportunities for submit their defence.

6. The points that would arise for consideration are as under:

- i) Whether there is deficiency of service on the part of the opposite party?
- ii) Whether the complainant is entitle for the relief sought ?
- iii) What order?

7. Our findings on the aforesaid points are as follows:

**Point No.1:** In affirmative

**Point No.2:** partly in affirmative

**Point No.3:** As per the final order for the following;

### **REASONS**

**8. POINT NO.1 & 2:-** Both the points are taken together to avoid the repetition of facts. The complainant has filed affidavit evidence by marking the documents from Ex.P1 to



Ex.P7. The opposite party No.1 and opposite party No.3 did not participate in the proceedings of this commission. Both these parties were given an opportunity and they remained absent.

**9.** The opposite party No.2 submitted its written version but did not file affidavit evidence or written arguments. This commission has perused the documents and observed that the complainant has purchased a mobile phone by paying an amount of Rs.10,499/- to the opposite party No.2 by making online payment to opposite party No 2. The opposite party No.2 is an online seller in the name Amazon Seller Services Private Limited. The opposite party No.1 is a manufacturer of the mobile Redmi Note, which was purchased by the complainant. The opposite party No.3 is an authorized service centre.

**10.** The complainant states that after purchasing the mobile phone, it was having issues like hanging, heating, battery draining and speaker problem. Due to lockdown, the complainant gave his mobile phone to the authorized service centre for fixing the issues after the lockdown was withdrawn. Once the lockdown period was over, he gave his mobile to the opposite party No.3 who is the service centre of the opposite party No.1. The mobile was given to the service centre on 12.01.2021. After this service, the complainant alleges that even after the 1<sup>st</sup> service, the same issues were persisted. He took the mobile phone again to the opposite party No.3 for repair on 27.01.2021 for the 2nd time. After



the service of the mobile phone for the second time, the complainant says that the same problems continued (Exhibit P3). The complainant states that the phone was switched off and not turned on due to an overheating issue. Hence, he took the mobile phone and gave it to the opposite party No.3 who is the service centre on 26.02.2021 for the 3<sup>rd</sup> time. The opposite party No.3 states that there is water inside the phone and this water issue does not come under the warranty and if the complainant is willing to pay Rs.7,000/-, the problem can be resolved. (Ex.P4).

**11.** The contention of the opposite party No.2 states that it acted as a facilitator via the said website which provided an online marketplace platform to sellers to sell their product online to prospective buyers. It is argued that the intermediary as defined under the Information Technology Act is only a platform where independent sellers, sell their products to the buyers without any influence. As and when any defect occurs in the product, the liability lies with the manufacturer. And on this issue, the contention of the commission is that the opposite party No.2 cannot be exonerated from its liabilities being facilitator and active participant in the deal.

**12.** It is not in dispute that the mobile phone was purchased by the complainant through the Amazon Seller Services Pvt. Ltd. The defects occurred during the warranty period. The authorized mobile service centre tried its level best to rectify the defects but failed to do so. Thus, it is



proved that there was manufacturing defect in the mobile phone for which the manufacturer can also be held liable. This commission does not pursue any deficiency in service on the part of the opposite party No.3. Accordingly, this commission directs the opposite party No.1 and No.2 to be held jointly and severally liable to pay a sum of Rs.10,499/- along with interest of 9% per annum from the date of filing of the complaint till its realization and Rs.5,000/- towards litigation expenses and compensation to the complainant.

**13. POINT No.3:-** In view of the discussions made above, we proceed to pass the following;

### **ORDER**

Complaint is allowed in part. The opposite party No.1 & 2 are held jointly and severally liable to pay a sum of Rs.10,499/- with interest of 9% per annum from the date of filing of the complaint till realization and a sum of Rs.5,000/- towards litigation expenses and compensation.

The Opposite Party No. 1 & 2 shall comply the order within 45 days. In case they fail to comply the same within the above said period, the above said amount of Rs.5,000/- carries interest at the rate of 9% per annum from the date of order till realization.

Applications pending, if any, stand disposed of in terms of the aforesaid judgment.







7. Redmi Handset is marked as Ex.P7.

**Witness examined from the side of opposite party:**

-Nil-

**Documents marked from the side of Opposite Party:**

-Nil-


  
29/05/2024.   
(Rekha Sayannavar) (Chandrashekhar S Noola) (SHIVARAMA K)  
MEMBER MEMBER PRESIDENT

Supply free copy of this order to both the parties and return extra copies of the pleading and evidence to the parties.

(Dictated to the Typist to online computer and typed by her and corrected and then pronounced in the open Commission on **29<sup>th</sup> day of May 2024**)

  
29/05/2024.  
**(Rekha Sayannavar)**  
**MEMBER**

  
29/05/2024  
**(Chandrashekhar S Noola)**  
**MEMBER**

  
29/05/2024  
**(SHIVARAMA K)**  
**PRESIDENT**

**//ANNEXURE//**

**Witness examined from the side of complainant:**

Sri. P.N. Raghavendra Rao, the complainant (PW-1).

**Documents marked from the side complainant:**

1. Tax invoice dt.18.03.2020 is marked as Ex.P1.
2. Three service orders dt.12.01.2021, 27.01.2021 and 26.02.2021 is marked as Ex.P2.
3. Office copy of the legal notice dt.23.01.2021 with postal receipt and acknowledgement is marked as Ex.P3.
4. Reply dt.13.04.2021 by opposite party is marked as Ex.P4.
5. E-mail letter dt.15.07.2021 is marked as Ex.P5.
6. Copy of warranty card is marked as Ex.P6.