

**IN THE DELHI STATE CONSUMER DISPUTES REDRESSAL
COMMISSION**

Date of Institution: 18.09.2023

Date of hearing: 09.10.2024

Date of Decision: 21.11.2024

FIRST APPEAL NO.- 486/2023

IN THE MATTER OF:

**AIRBNB INDIA PRIVATE LTD.,
4TH FLOOR, STATESMAN HOUSE,
BARAKHAMBA ROAD, CONNAUGHT PLACE,
NEW DELHI – 110001.**

(Through: AZB & Partners)

.... Appellant

VERSUS

**MR. VARUN MIRCHANDANI,
S/O MR. SONU MIRCHANDANI,
R/O F-166, 303, MALCHA MARG,
NEW DELHI – 110021.**

(Through: Mr. Siddhant Nath, Advocate)

.... Respondent

CORAM:

**HON'BLE JUSTICE SANGITA DHINGRA SEHGAL
(PRESIDENT)**

HON'BLE MS. PINKI, MEMBER (JUDICIAL)

Present: Ms. Nikitha Shenoy and Ms. Alisha Luthra, counsel for
appellant.

Mr. Siddhant Nath, counsel for respondent.

PER: HON'BLE JUSTICE SANGITA DHINGRA SEHGAL, PRESIDENT

JUDGMENT

1. The present appeal has been preferred by the Opposite Party/Appellant challenging the Order dated 06.07.2023 passed by the District Commission in Consumer Complaint No. 296/2022, titled Varun Sonu Mirchandani Vs. AIRBNB Pvt Ltd Co., whereby it held as under:

“This Commission after hearing the oral arguments and material placed on record is of the view that the contentions/averments as contained in the application of the OP are not sustainable. The issue of filing the complaint was also examined, it was noticed that the complaint under Section 17 of CP Act 2019 is shown in the heading of the complaint. The Commission has gone into the entire complaint and found that the complainant has made mention in the body of the complaint that "the District Commission has territorial jurisdiction to entertain the present complaint under Section 34 of CP Act, 2019." Hence, mere mention of Section in the heading of the complaint does not take the complaint out of the jurisdiction of this Commission. The above mention of relevant provision i.e Section 34 in the body of the complaint takes precedence as the same has been mentioned specifically.

Therefore, the contentions of OP is rejected on this score also. As has been maintained by the complainant that if application under reference is allowed, then, what shall be remedy for the all users of the world except those of Ireland in such open platform. Accordingly, the application is rejected.”

2. Aggrieved by the aforesaid order, the Appellant filed the present appeal on the ground that there was no privity of contract between the Appellant and

the Respondent and, consequently, no injury could have been caused to the Respondent. The Appellant relied on Civil Appeal No. 1065 of 2021, titled Janpriya Buildstate vs. Amit Soni & Ors., decided on 07.12.2021 by the Hon'ble Supreme Court. The Counsel for the Appellant submitted that the District Commission failed to consider that the Respondent is not a "consumer" under the Consumer Protection Act, 2019, as the Respondent neither paid any consideration nor agreed to pay any consideration to the Appellant. He further argued that the District Commission failed to recognize that the complaint was bad in law for non-joinder of a necessary party, namely Airbnb Ireland, the relevant Airbnb entity for Indian users of the platform, and that the Respondent failed to implead it in the case.

3. The Counsel for the Appellant also submitted that the District Commission failed to appreciate that the doctrine of separate corporate personality is a well-established principle of law and cannot be dismissed as a mere "technical issue. Pressing the aforesaid contentions, the Appellant has prayed that the Impugned Order dated 06.07.2023 be set aside.
4. The Respondent, on the other hand, denied all the allegations of the Appellant and submitted that there is no error in the impugned order dated 06.07.2023.
5. The Appellant has filed written arguments on record and reiterated the same points made in the appeal.
6. Written Arguments of the Respondent has also on record and relied upon following judgments:
 - I. Mr. Supriyo Ranjan Mohapatra vs. M/s Amazon Development India Pvt. Ltd., decided on 11.01.2021 by SCDRC Odisha, Cuttack.
 - II. Parbodh Chnader Bali vs. The Managing Director, Airbnb India Ltd., decided on 29.05.2019 by DCDRF, Amritsar.

7. We have perused the material available on record and heard the counsel for both the parties.
8. **The first question for consideration before us is whether the Respondent qualifies as a 'consumer' under the Consumer Protection Act, 2019?**
9. To comment on this issue, we deem it appropriate to refer to Section 2(7) of the Consumer Protection Act, 2019, which provides as under:
- (7) "consumer" means any person who—
- (i) buys any goods 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 paid or promised or partly paid or partly promised, or under any system of deferred payment, when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or
- (ii) hires or avails of 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 beneficiary of such service other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person, but does not include a person who avails of such service for any commercial purpose. ”
10. The above statutory provision makes it clear that a person who buys goods or avail services for a consideration which has been paid or promised or

partly paid and partly promised, or under any system of deferred payment is a consumer.

11. Returning to the fact of the present, it is clear that the Complainant/Respondent through online platform of the Appellant booked accommodation i.e., apartment-Cadogan Square-II, Greater London, England. The Respondent duly paid a consideration amount of Rs. 13,75,713/- to the Appellant for said services through its online platform. Therefore, the Complainant falls under the category of 'consumer' provided by the Consumer Protection Act, 2019.
12. **The second question for consideration before us is whether there is any privity of contract between the parties?**
13. On perusal of record, it is noted that the Respondent had booked an accommodation on the online platform of the Appellant. Accordingly, the Respondent paid the entire amount of Rs. 13,75,713/- in advance at the time booking on 13.04.2022 and the said booking was duly confirmed by the appellant vide confirmation code HMQ88HBRX9 at the said platform of the appellant. However, the booking of the Respondent was cancelled as alleged by the Complainant.
14. Further, it is well established that privity of contract refers to a direct contractual relationship between two parties. In the present case, the Appellant's role as the facilitator of services through its online platform creates an enforceable contractual relationship between the parties.
15. The Appellant has explicitly stated in its Memorandum of Understanding that its business includes providing services to its affiliated companies to assist in expanding their operations in India including enabling Indian customers to list, discover, and book accommodations globally. Therefore, by accepting payment from the Respondent for the booking (Rs. 13,75,713 for the stay from 3 June 2022 to 25 June 2022 in London), the Appellant

undertook the responsibility to ensure the successful execution of the transaction.

16. The cancellation of the Respondent's booking just four days prior to the scheduled stay constitutes a breach of the service expectations and obligations created by the Appellant's platform. The privity of contract exists as the Respondent was directly interacting and transacting with the Appellant for the provision of services. Consequently, we opine that Appellant i.e., intermediaries facilitating services on behalf of other entities still bear liability if they are a part of the transaction chain.
17. **The next question for consideration before us is whether the non-joinder of Airbnb Ireland affects the maintainability of the complaint?**
18. The Appellant's submission that Airbnb Ireland is a necessary party is misplaced. The Appellant, acting as the Indian entity, facilitates bookings and acts as a point of communication for Indian users. Its role in assisting Indian customers and handling payments creates sufficient nexus for it to be considered a service provider under the Consumer Protection Act.
19. We also deem it appropriate to refer section 2 (42) of the Consumer protection act 2019:

“ "service" means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, telecom, boarding or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service;”

20. The Consumer Protection Act, 2019, under Section 2(42), explicitly recognizes liability of intermediaries who facilitate services by managing listings, payments, and other consumer interactions.
21. In the present Case, Appellant i.e., Airbnb Pvt. Ltd. played an active role in the transaction and therefore, it cannot deflect liability by citing the non-joinder of its parent entity, Airbnb Ireland.
22. The main question for consideration before us is *whether the impugned order dated 06.07.2023, passed by the District Commission, is suffering from any infirmity?*
23. It is pertinent to note that the Appellant itself, as part of its admitted operations, provides services to its affiliated companies to assist in expanding their operations in India. This includes enabling Indian consumers to list, discover, and book accommodations globally. Additionally, it cannot be denied that the Respondent's booking was confirmed and subsequently canceled a month after confirmation and only four days prior to the Respondent's scheduled arrival in London.
24. The District Commission was justified in its observation that if only Airbnb Ireland is responsible for any deficiency, then it would lead to a situation where Airbnb entities operating in India, which admittedly engage in promotion and marketing for Airbnb's global services, could avoid liability entirely. Consequently, we concur with the District Commission's finding that it was within its jurisdiction to entertain the complaint and address the Respondent's grievance.
25. In light of the aforesaid discussion, we find no reason to interfere with the order dated 06.07.2023 passed by the District Consumer Disputes Redressal Commission-II, Udyog Sadan, C-22/23, Qutub Institutional Area, Mehrauli, New Delhi - 110016 in Consumer Complaint No.296/2022 titled as Mr. Varun Sonu Mirchandani vs. Airbnb India Pvt. Ltd.

26. Consequently, *the present Appeal stands dismissed with no order as to costs.*
27. Application(s) pending, if any, stand disposed of in terms of the aforesaid judgment.
28. The judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.
29. File be consigned to record room along with a copy of this Judgment.

**(JUSTICE SANGITA DHINGRA SEHGAL)
PRESIDENT**

**(PINKI)
MEMBER (JUDICIAL)**

Pronounced On:
21.11.2024

L.R. ZA