

**BEFORE THE CONSUMER DISPUTES REDRESSAL FORUM  
ERNAKULAM**

**Complaint Case No. CC/22/383  
( Date of Filing : 17 Aug 2022 )**

1. REGHU AJAY

VINAYAKAM VELLOORKUNNAM MARKET P.O,  
MUVATTUPUZHA, ERNAKULAM 686673

.....Complainant(s)

Versus

1. SAMSUNG INDIA ELECTRONICS PVT LTD

24TH FLOOR, TWO HORIZON CENTRE, GOLF COURSE  
ROAD, SECTOR 43, DLF PH-V, GURGAON, HARYANA  
122202

.....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 : 26 Oct 2023**

**Final Order / Judgement**

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION ERNAKULAM**

Dated this the 26<sup>th</sup> day of October,  
2023.

Filed on: 17/08/2022

**PRESENT**

Shri.D.B.Binu

President

Shri.V.Ramachandran

Member Smt.Sreevidhia.T.N

Member

**C.C No. 383/2022**

**COMPLAINANT**

Raghee Ajay, Vinayakam ,Velloorkunnam, Market P.O Muvattupuzha, Ernakulam Dist.-686673.

(Rep. by Adv. Tom Joseph, Court Road, Muvattupuzha 686661)

**VS**

**OPPOSITE PARTIES**

1. M/s Samsung India Electronics Pvt. Ltd., 20 to 24<sup>th</sup> Floor, Two Horizon Centre Golf Course Road, Sector-43 DLF PH-V, Gurgaon, Haryana-122202. Represented by its Managing Director.

(Rep. by Adv. K.S. Arundas, #35, DD Oceana Mal, Near Taj Gate Way Hotel, Marine Drive, Ernakulam 682031)

2. M/s Nelloor Home Shoppe, Choorapuzha Tower, Pala-Thodupuzha Road, Thodupuzha-685584, Represented by its Managing Director.

## **FINAL ORDER**

### **D.B. Binu, President:**

#### **1). A brief statement of facts of this complaint is as stated below:**

The complaint was filed under Section 35 of the Consumer Protection Act, 2019. The brief facts, as averred in the complaint, are that the complainant purchased a Samsung refrigerator model RT2734SNBRY/IL on January 14, 2017, for Rs. 78,000 with a ten-year compressor warranty. After experiencing 'no cooling' issues, they lodged a complaint on March 18, 2022, which was initially repaired for Rs. 2,581 despite being within the warranty period. However, the problem persisted, leading to the refrigerator being sent to the service centre. The service centre failed to fix the issue and offered a 90% refund, but the complainant received only Rs. 7,800 instead of the expected amount. Subsequently, the complainant's lawyer sent a notice to the manufacturer, which resulted in false statements from the manufacturer.

The complainant discovered that the necessary parts for repairing the refrigerator were not available since the model had been withdrawn from the market. This failure to rectify the defect due to the unavailability of parts is considered a deficiency in service and unfair trade practice. The complainant is seeking a refund of the remaining balance of Rs. 70,200 for the refrigerator, along with 12% interest from the complaint date. Additionally, they are requesting Rs. 50,000 as compensation for the mental distress, financial loss, and hardship endured due to the extended period without a working refrigerator. The complainant is also seeking the cost of the proceedings.

#### **2). Notice**

The Commission issued notices to the opposite parties. The first opposite party responded with their version. In contrast, even after acknowledging the notice, the second opposite party neither appeared nor provided their version, as a result, they are set ex-parte.

#### **3). THE VERSION OF THE FIRST OPPOSITE PARTY**

The complainant has wrongly impleaded OP No. 1 in the complaint without proper verification of facts and reasonable due diligence. It clarifies that Samsung India Electronics Pvt. Ltd. is a

reputable company that manufactures electronic appliances and mobile handsets, and it has its office at a specific address. The statement presents several preliminary objections that question the maintainability of the complaint. The complaint is misconceived, groundless, and unsustainable in law. It emphasizes that defects in a Samsung refrigerator may not necessarily constitute manufacturing defects, and other factors like mishandling or improper use could be responsible. The service center initially offered a 10% depreciated refund, which was accepted by the complainant but later refused. The statement denies the complainant's claim of a 90% refund offer. The Consumer Protection Act may not apply to this case, and the complaint is an abuse of the process of law intended to harass the OP. It asserts that the complainant suppressed material facts and that the OP has acted in accordance with the terms and conditions of the warranty. It also mentions that the complainant did not approach the Commission with clean hands. The statement further contends that the OP is not liable for any refund or compensation beyond the 10% refund already offered and that the complainant's claims should be dismissed. It asserts that no deficiency in service or unfair trade practices occurred on the part of the OP.

Finally, the statement prays for the dismissal of the complaint with exemplary costs in favour of the OP and against the complainant in the interest of justice, equity, and good conscience.

#### **4) . Evidence**

The complainant filed a proof affidavit along with 7 documents marked as Exhibits A1 to A7.

Exhibit A1: Copy of the retail invoice dated 14.6.2017.

Exhibit A2: Copy of the cash receipt dated 3.4.2022.

Exhibit A3: Copy of the customer service card dated 9.5.2022.

Exhibit A4: Copy of the communication between the service centre and the quality wing of the 1st opposite party.

Exhibit A5: Copy of the Cheque bearing No. 461243 dated 08.06.2022.

Exhibit A6: A copy of the lawyer's notice.

Exhibit A7: Copy of the reply notice.

The first opposite party filed a proof affidavit along with 4 documents.

1. A copy of the POA dated 01.01.2021
2. A copy of Customer service records
3. A copy of the reply letter sent by the opposite party to the complainant.
4. A Copy of POD.

#### **5) The main points to be analyzed in this case are as follows:**

- i) Whether the complaint is maintainable or not?
- ii) Whether there is any deficiency in service or unfair trade practice from the side of the opposite party to the complainant?

iii) If so, whether the complainant is entitled to get any relief from the side of the opposite party?

iv) Costs of the proceedings if any?

**6) The issues mentioned above are considered together and are answered as follows:**

In the present case in hand, as per Section 2(7) of the Consumer Protection Act, 2019, a consumer is a person who buys any goods or hires or avails of any services for a consideration that has been paid or promised or partly paid and partly promised, or under any system of deferred payment. Copy of the retail invoice dated 14.6.2017 issued by the second opposite party. The receipt evidencing payment to the opposite parties (**Exhibits A-1**). Hence, the complainant is a consumer as defined under the Consumer Protection Act, 2019.

The complainant initiated the case, seeking redress for the inadequate service provided by the opposite parties due to the malfunction of the refrigerator they supplied. This malfunction led to a decline in the quality of service offered to the complainant.

We have heard Sri. **Tom Joseph**, the learned counsel appearing for the complainant, submitted that the main issue in this case is a malfunctioning refrigerator provided by the opposite parties. The first opposite party has acknowledged in their statement that the refrigerator cannot be repaired due to internal issues. Even though the first opposite party should have either fixed the appliance or refunded its cost since it's beyond repair, they only proposed a minor compensation of Rs. 7800/-. The evidence presented by the complainant includes documents **Exhibits A1 to A7**, while the opposite parties haven't provided any counter-evidence. Notably, as the manufacturer, the first opposite party is obligated to supply spare parts for their products for a minimum of ten years according to their license terms. However, the specific refrigerator model in question has been discontinued, and its spare parts are unavailable, making repairs unfeasible. The first opposite party has not adequately explained their failure to address the issue or provide a refund. Given these details, the complainant is seeking approval of their complaint, implying they want a fair resolution, possibly in the form of a refund or appropriate compensation for the faulty refrigerator.

On the contrary, Sri. K.S. Arundas, the learned counsel appearing for the first opposite party, submitted that the complainant mistakenly involved the first opposite party in the complaint without verifying the facts. Samsung India Electronics Pvt. Ltd. is a respected company known for manufacturing electronics and mobile phones. The statement challenges the complaint's validity, suggesting it lacks merit and legal grounds. It highlights that a defect in a Samsung refrigerator doesn't necessarily indicate a manufacturing flaw; other reasons could include mishandling. Initially, a 10% refund was offered to and accepted by the complainant, but they later declined it. The statement refutes the 90% refund claim made by the complainant. It argues that the Consumer Protection Act might not be pertinent in this case, and the complaint appears to be an attempt to cause undue trouble to the first opposite party. The statement accuses the complainant of withholding key information and asserts that the first opposite party has acted in line with the warranty's terms. The statement maintains that the first opposite party has no obligation beyond the already offered 10% refund and denies any lapses in service or unfair practices on their part. In relation to the warranty, it wasn't stipulated that free repairs or replacements would be provided for physical damages or mishandling after the warranty period. However, a depreciated refund was extended to the complainant as a goodwill gesture. Citing the Supreme Court case, **Bharathi Knitting vs. D.H.L. Worldwide**, the statement emphasizes

that parties are bound by contract terms. Thus, the first opposite party is not liable for additional refunds or compensations since a refund was already presented to the complainant.

The second opposite party's conscious failure to file their written version in spite of having received the Commission's notice to that effect amounts to an admission of the allegations levelled against them. Here, the case of the complainant stands unchallenged by the second opposite party. We have no reason to disbelieve the words of the complainant as against the second opposite party. **The Hon'ble National Commission held a similar stance in its order dated 2017 (4) CPR page 590 (NC).**

While India doesn't have a distinct "**Right to Repair**" law, there have been occasions when the judiciary addressed related concerns. **In Shri Shamsheer Kataria v. Honda Siel Cars Limited & Ors., the Competition Commission of India (CCI)** firmly stated that any anti-competitive actions taken by the automobile industry under the guise of IPRs would be terminated and nullified. This particular case tackled the issue of limiting consumers to buying goods/services solely from an authorized car dealer. Another notable case, **Sanjeev Nirwani v. HCL**, determined that companies must supply spare parts beyond the warranty duration, and failure to do so would be deemed an unfair trade practice.

The complainant has produced an **Exhibits A-3** document to prove the damage to the product. The complainant's claim against the second opposite party remains unchallenged and the complainant is successful in proving a transaction between the complainant and the both Opposite Parties and the complainant has suffered mental agony and harassment at the hands of the opposite parties.

The complainant argued that the opposite parties are liable to ensure the availability of components in the market for at least 10 years when their products are introduced into the market. We are inclined to accept the above contention raised by the complainant. In the circumstances, the second opposite party had not made available the required spare parts of the product to rectify the defects they are guilty of deficiency in service and unfair trade practices on their part.

After meticulously examining the testimonies and evidence placed on record, the commission is convinced of the veracity of the complainant's claims.

- A. The complainant's grievances revolve around issues of 'no cooling,' which prompted them to file a complaint on March 18, 2022. Initially, the refrigerator was repaired for Rs. 2,581, despite being within the warranty period. However, the issue persisted, leading to the refrigerator being sent to the service center. The service center failed to rectify the issue, and an offer of a 90% refund was made to the complainant, but they received only Rs. 7,800. Subsequently, the complainant's lawyer sent a notice to the manufacturer (1st opposite party), resulting in false statements from the manufacturer.
- B. The complainant discovered that the necessary parts for repairing the refrigerator were not available since the model had been withdrawn from the market. This failure to rectify the defect due to the unavailability of parts is considered a deficiency in service and unfair trade practice.
- C. The act of the second opposite party in not filing their version, despite receiving notice from the Commission, as iterated in the precedent cited (**2017 (4) CPR page 590 (NC)**), is deemed as an acceptance of the complainant's assertions.

- D. We acknowledge the precedent set in **Sanjeev Nirwani v. HCL**, where companies are obligated to provide spare parts even after the warranty duration has elapsed. The inability of the second opposite party to furnish the necessary spare parts for the rectification of the refrigerator is deemed a deficiency in service and an unfair trade practice.
- E. While we consider the arguments put forth by the first opposite party, the fact remains that the product was under a ten-year compressor warranty. The partial refund offered, which significantly deviates from the promised 90% refund, along with the non-availability of requisite parts, collectively substantiates the claim of deficiency in service and unfair trade practices.

## **ISSUES FOR CONSIDERATION:**

### **Deficiency in Service and Unfair Trade Practice:**

The complainant initiated the case, seeking redress for the inadequate service provided by the opposite parties due to the malfunction of the refrigerator they supplied. This malfunction led to a decline in the quality of service offered to the complainant. The first opposite party acknowledged in their statement that the refrigerator could not be repaired due to internal issues, and the warranty terms required them to provide spare parts for a minimum of ten years.

The evidence presented by the complainant, including documents **Exhibits A1 to A7**, supports their claim, while the opposite parties failed to provide any counter-evidence. The first opposite party's assertion that a defect in the refrigerator may not necessarily indicate a manufacturing flaw does not absolve them of their responsibility under the warranty terms. Moreover, the first opposite party's failure to explain their inability to address the issue or provide a refund is a clear indication of a deficiency in service.

The complainant's contention that the opposite parties failed to supply the required spare parts for the product, leading to the inability to rectify the defects, is valid. This amounts to a deficiency in service and unfair trade practices on the part of the opposite parties.

Manufacturers often use enticing advertisements to persuade people to buy their products. However, after the purchase, many of these companies neglect their responsibility to provide essential spare and consumable parts required for the product's proper functioning during its expected lifespan. This widespread issue impacts consumers across various products. When manufacturers refuse to supply these crucial parts, they essentially force consumers to discard products that are still functional. Such behaviour is an unfair trade practice, as it pushes consumers to buy replacements, thereby artificially boosting the manufacturer's sales and profits.

When manufacturers intentionally withhold essential spare and consumable parts for their products, they leave consumers with little choice but to abandon functioning products and purchase replacements. This not only burdens the consumers financially but also leads to environmental degradation due to increased electronic waste.

We find the issue Nos. (ii) to (iv) are also in favour of the complainant for the serious deficiency in service that happened on the side of the opposite parties. Naturally, the complainant had suffered a lot of inconvenience, mental agony, hardships, financial loss, etc. due to the negligence on the part of the opposite parties.

In view of the above facts and circumstances of the case, we are of the opinion that the opposite parties are liable to compensate the complainant.

Hence the prayer is partly allowed as follows:

- I. The Opposite Parties shall refund the complainant the remaining amount of Rs. 70,200/- for the refrigerator.
- II. The Opposite Parties shall pay Rs. 40,000 as compensation for the deficiency of service and unfair trade practices they committed. This amount covers the mental agony, physical hardships, financial loss, and the extended period the complainant endured without a working refrigerator.
- III. The Opposite Parties shall also pay the complainant Rs. 10, 000/- towards the cost of the proceedings.

The Opposite Parties are to be jointly and severally liable for the above-mentioned directions. They must comply within 30 days from the date of receiving a copy of this order. If they fail to do so, the amounts ordered in points (i) and (ii) above will attract interest @9% p.a. from the date of the complaint (17.08.2022) until the date of realization.

Pronounced in the Open Commission on this the 26<sup>th</sup> day of October, 2023

Sd/-

D.B.Binu, President

Sd/-

V.Ramachandran, Member

Sd/-

Sreevidhia.T.N, Member

Forwarded by Order

Assistant Registrar

## **Appendix**

### **Complainant's evidence**

Exhibit A1: Copy of the retail invoice dated 14.6.2017.

Exhibit A2: Copy of the cash receipt dated 3.4.2022.

Exhibit A3: Copy of the customer service card dated 9.5.2022.

Exhibit A4: Copy of the communication between the service centre and the quality wing of the 1st opposite party.

Exhibit A5: Copy of the Cheque bearing No. 461243 dated 08.06.2022.

Exhibit A6: A copy of the lawyer's notice.

Exhibit A7: Copy of the reply notice

### **Opposite party's evidence**

Nil

Despatch date:

By hand: By post

kp/

**CC No. 383/2022**

**Order Date: 26/10/2023**



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

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

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