

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION, REWARI.

Consumer Complaint No: 155 of 2020.

Date of Institution: 24.7.2020.

Date of Decision: 28.5.2024.

Dharamvir Yadav son of Shri Deendayal Yadav resident of village
Chhuriawas, Tehsil and Distt. Rewari .

.....Complainant.

Versus

1. Reliance Retail Ltd. BMG Mall Rewari, Tehsil and distt. Rewari
through its authorized person,
2. Reliance Retail Ltd. Shed no. 111 & 120 , Indian Corpn, Mankholi
Naka, Dapode Bhiwandi, Thane 421302,
3. Infinity e –services Private Ltd. 7th Floor, Universal Trade Tower,
Sohna road, Sec- 49, Gurugram, Haryana, 122104,
4. TTE Technology India Pvt. Ltd. BZ -705, 7th Floor, Boomeranc
Building Chandivali Farm Road, Andheri East Mumbai -400072,
5. TTE Technology India Pvt. Ltd. Town Centre-2, 2nd Floor, 202-203,
A & 2-3-B, Andheri, Kurla Road, Mumbai 400059,

.....Opposite Parties.

Complaint Under Section 35 of Consumer Protection Act, 2019

Before: Shri Sanjay Kumar Khanduja.....President.

Shri Rajender Parshad..... Member.

Present : Shri O.P. Yadav, Advocate for complainant.

Shri Anuj Yadav, Advocate for opposite parties no.1 & 2.

Opposite party no.3 given up on 9.5.2023.

Opposite parties no.4 and 5 given up on 16.2.2024.

ORDER

{ *Per Sanjay Kumar Khanduja ,President* }

This present complaint has been filed by complainant against the opposite parties (for short the OPs) under Section 35 of The Consumer Protection Act, 2019 alleging deficiency in services on their part.

2. Brief facts of the case are as under :-

3. Complainant purchased one LED (Smart Android) TV 49" from OP no.1 on 19.9.2019 vide invoice no. 869412019501290 by paying price of Rs.28528/-. The said LED has been manufactured by TTE Company. According to complainant, the said LED TV did not work properly after 15 days of its purchase due to manufacturing defect therein. According to complainant, it is unable to give Android Application. The said issue was escalated with OPs but they neither replaced nor repaired the defective LED TV. E-mails dated 15.10.2019, 18.10.2019, 28.10.2019 and 12.11.2019 were dropped to the OPs, whereupon the engineer of the company visited the place of the complainant to repair the TV but the issue could not be resolved.

4. According to complainant, he has suffered financial loss because of the defective piece of LED TV sold to him by the OPs. Hence, this complaint to return the price of the LED TV with interest besides paying him compensation for harassment and litigation expenses.

5. In the reply filed by the OPs no.1 and 2 ,the claim of the complainant has been controverted. It is submitted that the LED TV was sold to the complainant, which was defect free and was in a perfect working condition. There is no liability of OPs no.1 and 2 for any defects, for which the manufacturer OP no.3 is liable, as they are the sellers of electronics products of various manufactures. It is averred that the complainant never informed about the alleged defect in the TCL LED TV. It was sold in the same condition, in which it was brought from OP no.3.

6. It is pertinent to mention here that the OP no.3, manufacturer who was initially impleaded by the complainant was given up on 9.5.2023 upon the statement of learned counsel for the complainant. Interestingly, upon the application moved by OPs no.1 and 2, the manufacturers OPs no. 4 and 5 were impleaded vide order dated 21.8.2023 but thereafter again the complainant unilaterally deleted OPs no.4 and 5 on 16.2.2024.

7. Both the parties in support of their respective case tendered

in documentary evidence their respective affidavits and adduced certain documents. Reference of relevant record shall be given in this order.

8. We have heard both the counsel for the parties and gone through the case file thoroughly and after hearing the rival contentions of

both the parties, we are of the convinced view that the present complaint has no merit and the same deserves dismissal for the reasons mentioned hereinafter.

9. Only grouse of the complainant in this complaint is regarding the non-functionality of the Android Application of the LED TV. In this regard, the complainant has levelled allegation of manufacturing defect in the LED and has heavily relied upon the print out of the e-mail dated 2 July 2020. On the back side of the said mail, the complainant expressed his grouse that after 5 days of the purchase of the LED TV, he contacted customer care many times and engineer visited his house three times for the repair of the TV but the issue could not be resolved and thus he wanted the replacement of the TV.

10. In the said email, there is nothing to prove as to what sort of defects cropped up in the LED TV. Merely on the whims and fancies of the complainant, this Commission cannot pass any order for the return of the LED. It is despite the fact that in the last e-mail dated 14 Jan.2019, the complainant sought the replacement of the LED. Platform of the Consumer Commission under the Consumer Protection Act, 2019 cannot be misused by a frustrated litigant, to enrich himself. The provisions of the Consumer Protection Act, 2019 cannot be used as an engine of oppression to harass other. The complainant unilaterally deleted the

manufacturer OP no.3 as well as newly impleaded OPs no.4 and 5 who are the manufacturers of the LED TV, who supplied the LED TV to OPs no.1 and 2 in a packed and proper condition.

11. Learned counsel for OPs no.1 and 2, has rightly cited the case law of **Hon'ble National Consumer Disputes Redressal commission New Delhi (NCDRC) in case Bhagwan Singh Shekhawat Vs. M /s R.K. Photostat & communicate & two others 2017 (2) CPJ 462**, wherein that case Hon'ble National Commission dismissed the complaint filed by the complainant, when complainant did not implead manufacturer of mobile set of Motorola. In the said case, the complaint of the complainant was dismissed upto State Commission, Panchkula and the matter came up in revision before Hon'ble National Commission.

12. In other case law of **Krishi Pragati Vs. Hazar UL Islam & ORs. cited in 2012 (3) CPJ 677**, again it has been held by Hon'ble NCDRC that where the manufacturing defect in a vehicle is claimed by consumer, then dealer cannot be held liable because dealer provided all necessary services to complainant as and when required. In that case, the complainant did not implead the manufacturer through he alleged manufacturing defect in the vehicle like in the present case.

13. In case **Laxmi Automobiles Vs. Lal Kunwar Chaudhary & Anr.**

Cited in 2006 (1) CPJ 54, again Hon'ble **National Commission** held that the dealer cannot be held liable to make payment as it is the manufacturer alone, who is liable for any manufacturing defect in the vehicle.

14. In this case, the complainant made no effort to convince this Commission that there was manufacturing defect in the LED by producing some expert's report to prove the said crucial aspect of the matter. Neither the LED could be produced before this Commission nor its photographs are available on record.

15. Hence, as an upshot of our above discussion, finding no merit in this complaint, it is dismissed with no order as to cost. Copy of this order be sent to both the parties as per rules free of cost. This order be uploaded on the website of this Commission promptly. File be consigned to record room after due compliance.

Announced
28.5.2024.

President,
District
Consumer Disputes
Redressal Commission, Rewari.

Member,
DCDRC, Rewari.

(Nisha Yadav,S/Grapher)