

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-III:WEST
GOVT. OF NCT OF DELHI
C-150-151, COMMUNITY CENTRE, PANKHA ROAD, JANAK PURI
NEW DELHI-110058**

CC No.686/2017

In the matter of:

Umesh Kaushik
R/O C-159, Clock Tower, Hari Nagar,
New Delhi-110064

COMPLAINANT

VERSUS

1.Godrej & Boyce Manufacturing Co. Ltd.,
Godrej Bhawan, Sher Shah Suri Marg,
Okhla, New Delhi-110065

OPPOSITE PARTY

**DATE OF INSTITUTION: 20.11.2017
JUDGMENT RESERVED ON: 28.08.2024
DATE OF DECISION: 13.09.2024**

CORAM

**MS. SONICA MEHROTRA, PRESIDENT
MS.RICHA JINDAL, MEMBER
MR. ANIL KUMAR KOUSHAL, MEMBER**

**Present: Mr. Rakesh Gupta, counsel for the complainant along with
Complainant in person.
Mr. Mohd. Ashraf, counsel for the OP.**

ORDER

Per: ANIL KUMAR KOUSHAL

Facts of the case as culled out from the record are noted hereunder:

1. Complainant had bought one fully automatic washing machine of Godrej Make, mode No.GW15511RES in December, 2010 from M/s Kapila Electronics Pvt. Ltd, Janak Puri, New Delhi vide invoice No.7835 dated

23.12.2010 for Rs.21500/-. On 12.2.2017, i.e. after about seven years of purchase, the complainant lodged an online complaint with the OP vide No.D1202323963 regarding error message displaying E7C and machine not completing wash cycle. The said complaint was attended by Penguin Services, 1, DDA Market, Bhera Enclave, Paschim Vihar, New Delhi on 13.2.2017 on behalf of OP and they charged Rs.403/- vide bill No.1427 dated 13.2.2017 on account of visiting charges valid for a period of one month. The complainant was informed that electric wire had burnt and it had been replaced. Further the complainant was asked to run the machine for 4 hours and revert back if the problem persists. Thereafter the complainant received a surprising message from the OP on his phone that an estimate of Rs.5500/- needs to be approved for repair of above said washing machine. In the meantime when the washing machine was put to use, it caught fire. Interestingly, in the meantime, the above said complaint dated 12.2.2017 earlier lodged by the complainant, was closed by the OP even without the complainant's response and without obtaining the secret code from him for such closure. The complainant was forced to lodge another complaint with the OP vide complaint No.D1702326805 on 17.2.2017.

2. Complainant further submits that the complaint lodged by him on 17.2.2017 was again attended to by M/s Penguin Services on 18.2.2017. The attending Engineer Mr. Manoj Bhola informed the complainant that the machine had caught fire because of water dripping onto water heating unit from the leaking wash tub. He also informed the complainant that the

washing machine is irreparable and its parts are not available and therefore, there is no alternative but to replace the same with a new washing machine.

3. Complainant submits that he was forced to buy a new washing machine on 18.2.2017 for Rs.20090/- from M/s Croma. In this regard the complainant exchanged emails with the higher ups of OP on 18.2.2017 to which a reply email was received by him on 25.2.2017 from the OP informing that the attending engineer Mr. Manoj Bhola had visited the premises of complainant and given the estimate of repair. In the email it was also asserted that the said engineer was told by the complainant not to repair the washing machine as he is going to buy a new washing machine and therefore, the said engineer left complainant's house.

4. Complainant further submits that thereafter on 16.3.2017 he received another email from the OP referring to technician visit and confirming some facts but with a new revelation that the heater wire was bitten by rats. It was further stated therein that the fire incident happened due to water dripping which is probably the reason for usage of washing machine.

5. Finding contradiction in the statements of OP, the complainant sent legal notice followed by filing of the present complaint. It is contended by the complainant that on the first visit by the engineer of OP on 13.2.2017, after replacing or repairing the burnt wire, he had confirmed the subject washing machine to be in working condition and advised him to use although the said engineer had failed to identify the real cause resulting in

burning of the washing machine. But later on an estimate of Rs.5500/- was sent by the OP through SMS to the complainant.

6. The following reliefs are claimed by the complainant:

A) Issue orders to the OP to pay a sum of Rs.55,090/- as compensation towards purchase of a new machine costing Rs.20090/- plus Rs.30000/- towards consolidated damages.

B) Issue orders to the OP to pay interest @ 18% from the date of award of compensation till the actual date of payment;

7. Complainant attached copies of invoice dated 23.12.2010 for Rs.21,500/-, receipt for Rs.403/- dated 13.2.2017, invoice towards purchase of new washing machine for Rs.20090/- on 18.2.2017, emails exchanged with the OP, along with the complaint.

8. On admission of the complaint, notice was issued to the OP who upon service, filed its written statement. The OP denied any deficiency on its part and submitted that the complaint is not maintainable as no cause of action has arisen against it.

9. Evidence by way of affidavit was filed by the respective parties and they exhibited their respective documents filed on record. Written arguments were also filed by the parties on record. Oral arguments were heard on 28.8.2024. Mr. Rakesh Gupta, counsel for the complainant along with complainant in person put forth their oral submissions. Before Mr. Mohd. Ashraf, counsel for the OP could make his oral submissions, a question was asked from the complainant as to what is the status of the subject washing machine, whether he has got it repaired or not. The complainant candidly submitted that since the washing machine had become useless and he had

purchased a new washing machine, therefore, he disposed of the subject washing machine, which is the bone of contention in the present proceedings, in scrap.

10. Since the washing machine in question has been disposed off by the complainant, we may at this stage rely on the judgment rendered by Hon'ble NCDRC in the case of **M/S. Honda Cars India Ltd. Vs Jatinder Singh Madan**, (Revision Petition No.2622/2012, decided on 11 October, 2013), in which it was held that since the complainant has sold the vehicle, the complaint is rendered infructuous as the complainant is no more a 'consumer'. This position has been reiterated by the Hon'ble NCDRC in the case of **Ramesh Vs. Skoda Auto India P. Ltd & ORs**, 2019 SCC Online NCDRC 465.

11. In view of the aforementioned rulings, the complainant in this case has no locus to contest the present complaint as having sold the subject washing machine during pendency of these proceedings. Accordingly, the complaint is dismissed as infructuous with no cause of action remaining.

A copy of this order shall be supplied free of cost to parties to the dispute in the present complaint, upon a written requisition being made in writing in the name of President of the Commission in terms of Regulation 21 of the Consumer Protection Regulations, 2020 as amended from time to time. File be consigned to record room.

(Richa Jindal)
Member

(Anil Kumar Koushal)
Member

(Sonica Mehrotra)
President