

Nandakumar Naidu Vs. Hewlett Packard India Sales Pvt. Ltd. and Others

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SooperKanoon Citation : sooperkanoon.com/1108322

Court : Karnataka State Consumer Disputes Redressal Commission SCDRC

Decided On : Mar-09-2012

Judge : K. Ramanna, President & the Honourable Mrs. Rama Ananth, Member

Appeal No. : Appeal No. 457 of 2010

Appellant : Nandakumar Naidu

Respondent : Hewlett Packard India Sales Pvt. Ltd. and Others

Judgement :

Ramanna, President

1. This is an appeal filed by the complainant to set aside the order dated 8.1.2010 passed by the DF, Dharwad in Complaint No.347/09 whereby the complaint filed by the appellant came to be disposed of with a direction to Respondent No.1 to replace the computer system of same model to the appellant / complainant within 15 days. Therefore, he has come up with this appeal on various grounds.

2. After service of notice the respondent appeared through his counsel. We have heard the learned counsel for the appellant. None represents on behalf of the respondent on the day when the matter was posted for final arguments. Hence argument of respondent is taken as closed.

3. We have perused the records. The point that arises for our consideration in this appeal is that whether the order passed by the District Forum is correct or not?
4. On perusal of the order under challenge and the grounds of appeal it could be stated that the appellant filed the complaint as against the Ops. He is a business man and he intended to purchase a computer for his personal use. Therefore during August 2006 as he felt that he is in need of advanced, he approached Respondent No.2/OP-2 to purchase the computer system.
5. At that time OP-2 was dealing in sales and service of computer systems in the name and style of Unique Computers. OP-2 has assured that it would supply best quality of branded HP Computer System manufactured by OP-1 and also of giving post sale services including installation. Believing the Ops he purchased HP Pavilion A 1520 IN Desktop (S/N INI 6230BZ2) HP VS 17 17, IFT Monitor . And the said system has three years warranty from the date of purchase.
6. OP-2 deputed its technician for installing the system in his house. As an experienced operator he used the computer strictly as per the instructions. Despite diligent use, within about a month he started experiencing problems like no display. In this connection she brought to the notice of OP-2 about the problem, in turn OP-2 asked to approach OP-3 saying that it is authorized service station at Hubli for the products of Respondent No.1. Accordingly, on complaint R-3 sent one Mr.Sachin to attend the problem and gave a report undated. Therefore he filed the complaint.
7. Of course, Ops have appeared before the District Forum through their respective advocates. Except OP-1, other Ops have filed their version. In the meanwhile, a proposition was put forth by R-1 before the DF through its counsel that they would replace the computer. On that ground only the matter was adjourned from time to time but in vain.
8. At last the impugned order came to be passed by the DF without appreciating the factual aspect. When OP-1 failed to keep up its promise to replace the computer, the DF ought to have been passed an order stating that since failure of settlement should have posted the matter for filing the affidavit of the complainant

and should have also given opportunity to the OP to file the affidavit. Instead of that the DF without applying its judicious mind disposed of the case with a direction to Respondent No.1 to replace the computer system of same model to the complainant within 15 days. The District Forum ought not to have been passed such an order in the absence of the evidence of the complainant. It is well settled law that any amount of pleadings without proof or oral and documentary evidence will not take away the proof of legal evidence. The order passed by the District Forum is not a speaking order.

9. When Opposite party No.1 has not filed any version or the affidavit evidence, the DF ought to have been imposed heavy cost and granted time to OP-1 to file version. Even then if it is not filed then the DF ought to have been forfeited the right to OP-1 to file version and affidavit evidence. Strangely the appellant / complainant himself has not filed any affidavit though the other Ops have filed their version. Only on the basis of the strength of the submission made by the counsel for OP-1 that computer will be replaced, the impugned order came to be passed which in our considered opinion is totally perverse and incorrect.

10. The District Forum adopted the short circuit method in disposing of the case without going through the pleadings of the complainant, version and affidavit evidence of other Ops. Justice needs to be done but it does not appear to be done. The legitimate rights of the parties should not be affected. Therefore, we are of the opinion that the matter requires to be remanded to the DF with a direction to post the matter for hearing by affording opportunity to both the parties and to dispose of the matter in accordance with law. In the result, we pass the following:

ORDER

Appeal is allowed. The impugned order dated 8.1.2010 passed by the DF is set aside. The matter is remanded back to the District Forum with a direction to dispose of the case in accordance with law, after affording opportunity to the parties to file their version, affidavit evidence if any.

The parties are directed to bear their own costs.