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Court : Andhra Pradesh State Consumer Disputes Redressal Commission
SCDRC Hyderabad

Decided On : Jun-29-2009

Judge : Smt.M. Shreesha ,Hon[€][™]Ble Member & Sri K. Satyanand ,
Hon[€][™]Ble Member

Appeal No. : F.A.No.825 of 2008 against C.C.No.842 of 2007 District Consumer
Forum-1, Hyderabad.

Appellant : P.Thomas

Respondent : The Hcl Infosystems Ltd., Frontline Division and Another

Advocate for Pet/Ap. : Counsel for the appellant: Party in person appeared.
Counsel for the respondents: Mr.P. Vinod Kumar

Judgement :

Oral Order : (Per Smt. M. Shreesha, Honble Member)

This is an appeal preferred by the complainant against the order of the District Consumer Forum-1, Hyderabad dt.23.5.2008 in directing him to hand over the computer within ten days to the respondents to determine its functioning and if there is any defect to rectify the same, and in case the defect could not be rectified replace it with a new one.

The case of the complainant in brief is that he purchased a HCL computer from the dealer (opposite party no.2) manufactured by opposite party no.1 on 5.6.2007 for Rs.42,000/-. Right from the installation, the computer was not working properly. On this complaint, they have deputed service engineer, who after inspection expressed that there was defect. However, the same was not rectified. When there was no response from the respondents, he gave a legal notice on 25.6.2007 for which he did not receive any response. On that he filed the complaint for refund of Rs.42,000/- together with compensation of Rs.50,000/- and costs of Rs.3,000/-.

The respondents resisted the case. While admitting the sale of a personal computer with accessories, they asserted that on a complaint, the printer was replaced with immediate effect. Taking advantage of the fact that replacement of printer was made, the complainant was questioning that the computer was also giving problem. He was not allowing the service engineer and staff to check the computer in order to assess the problem for taking a decision in this regard. They sought for direction to be issued to the complainant to produce the computer in the court, where the service engineer would check up the computer and rectify the defect, if any. By filing the case unnecessary stigma was made against their unblemished record and therefore, they claimed damages of Rs.20,000/- with expenses of Rs.7,000/- and prayed for dismissal of the complaint with exemplary costs.

The complainant in proof of his case filed his affidavit besides Exs.A1 to A8. The opposite parties did not file any document or affidavit controverting the evidence of the complainant.

The District Forum after considering the evidence placed on record opined that the opposite parties had given an option either to hand over the computer to opposite party no.2 at his shop or to allow the service engineer to examine at his premises and he failed to avail any of the options, and therefore, the District Forum thought it fit that another chance could be given to the complainant to hand over the computer to the opposite party no.2 so that it could examine and determine its condition and if there is any defect to rectify or replace with immediate effect..

Aggrieved by the said order, the complainant preferred this appeal contending that the direction ought not to have been issued and that he was entitled to receive new computer or refund of the amount.

It is an undisputed fact that the complainant had purchased the computer from the dealer (R.2) manufactured by R1. The fact remains that while the complainant alleges that the computer was defective, the opposite parties allege that there was no occasion for them to test the computer to find out whether it was defective and if so, what were the defects in order to rectify the same.

The complainant, who personally conducting the matter, represents that in pursuance of the order of the District Forum, he tried to hand over the computer to opposite party no.2 but nobody was there.

By an order dt. 30.1.2009 this Commission had directed the complainant i.e. party in person to handover the computer to opposite party no.2 i.e. the second respondent herein on 2.2.2009 at 12.00 noon under acknowledgement and on such receipt, second respondent is directed to determine if there was any defect and if so whether it could be rectified and the status of the computer be informed to the complainant within a week on or before 9.2.2009 and both parties are directed to inform the outcome to this Commission on 10.2.2009. The matter was posted to 10.2.2009.

On 10.2.2009 the appellant/complainant was called absent but he filed a memo stating that opposite party no.2 refused to receive the computer when it was taken to him. The first opposite party also filed a memo before this Commission stating that the appellant/complainant never came to his office and did not attempt to return the computer. The matter was again posted to 3.3.2009 for verification and further direction . On 3.3.2009 the complainant was once again absent and in the light of the memo filed by him this commission had issued a notice to the complainant who is party in person to appear before this commission along with computer on 18.3.2009 at 10.30 a.m. On 18.3.2009 a notice to the complainant was once again issued by registered post acknowledgement due and the matter was called on 1.4.2009. The party in person i.e. the complainant herein was not present but he addressed a letter to post the matter after 20th April and the matter

was posted to 24.4.2009. Though the matter was posted on 24.4.2009 as per the request of the of appellant/complainant herein, he still did not attend to the Commission and the matter was posted to 11.6.2009 finally but on a direction on failure to appear, the matter would be disposed on merits after perusing the record. On 11.6.2009 the party in person was absent , the respondent was present and he was heard and the orders were reserved.

It is pertinent to note that the complainant was given several opportunities to bring the computer to the Commission to get it examined to find out whether there was any defect or not and though the respondents/opposite parties were present and also filed a memo that two technical engineers at their office were ready to examine the defects if any, the complainant failed to appear before this Commission inspite of the notices issued to him and also inspite of posting the matter on the dates convenient to him, to bring the computer to this Commission. The complainant had failed to avail the opportunity to bring the computer to this Commission in order to enable the respondent/opposite party to get it examined by their technical engineer and find out what defects are in the system. In the absence of any documentary evidence to state as to what the exact defects in the computer are and also in the light of the fact that the complainant, inspite of several opportunities given to him failed to bring the computer to this Commission for proper examination by the concerned technical people, we are of the considered opinion that the complainant failed to establish his case of deficiency of service on behalf of the opposite parties

In the result this appeal fails and is accordingly dismissed.

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