

**BEFORE THE DISTRICT COMMISSION-II
AT VISAKHAPATNAM**

**Date of Registration of the Complaint: 12.02.2021
Date of Final hearing: 23.02.2023
Date of Pronouncement: 20.03.2023**

CONSUMER CASE No.52/2021

In the Matter of:

The Consumer Rights Organization (CRO) / Upbhokta Adhikar Sangtha, represented by its President, Dr. Vikas Pandey, S/o late Sri Mohan Pandey, Hindu, aged 40 years, office situated at D.No.2-69, Rajeev Nagar, Visakhapatnam-530040.

(Through: Sri Palakurthi Srinivasa Apparao)
...Complainant

Versus:

1. Mitashi Edutainment Pvt. Limited, represented by its Managing Director, B Wing – 1905 to 1909, Kailas Business Park, Veer Savarkar Road, Parksite, Vikhroli, Mumbai-400079.
2. SONO VISION, represented by Authorized Signatory, 47-10-33/1, Ground Floor, near Diamond Park, Visakhapatnam- 530016.
3. Raj Electronics, represented by Authorized Signatory, 16 & 17, Ground Floor, Arunodaya Complex, Dwarka Nagar First Lane, Visakhapatnam- 530016.

(Through: Opposite Party No-1&2 are absent
Sri D. Satti Babu for Opposite party No-3)

... Opposite Parties

CORAM:

Smt. G.Venkateswari, M.Sc, LLB., President, Smt. P.Vijaya Durga, B.Com, B.L., Women Member., Sri Karaka Ramana Babu, M.Com, M.B.A., LL.B., Member.

P r e s e n t:

1. Smt. G.Venkateswari, M.Sc, LLB.,
President
2. Smt. P.Vijaya Durga, B.Com, B.L.,
Women Member
3. Sri Karaka Ramana Babu, M.Com, M.B.A., LL.B.,
Member

JUDGEMENT

(As per Smt. P.Vijaya Durga, Honourable Women Member, on behalf of the Bench)

- I. The present complaint is filed by the complainant to direct the opposite parties:
 - i. To refund Rs.17,000/- (Rupees seventeen thousand only) to the defacto-complainant being the cost of the T.V.
 - ii. To pay Rs.1,00,000/- (Rupees one lakh only) towards compensation for mental agony;
 - iii. To pay Rs.1,00,000/- (Rupees one lakh only) towards compensation for deficiency in service;

P.V. Durga

- iv. To pay costs of Rs. 10,000/- (Rupees ten thousand only) and such other relief or reliefs.

II. Facts of the case:

1. The complaint has been filed by President C.R.O on behalf of the complainant. Mr. N.C. Chandra Rao, 70 years, D.No.10-734-1, Visalakshi Nagar, Visakhapatnam against opposite party-1 manufacture, opposite party-2 is seller and opposite party-3 is a service center, who had purchased the T.V from a dealer/seller Opposite party-2 which was manufactured by opposite party-1. On 17-12-2019 the defacto complainant purchased LED T.V Mitashi vide invoice No. VZG2-SE-10868 for Rs.17,000/- (Rupees seventeen thousand only) from opposite party-2 the seller of Mitashi Brand Television and the same was installed in the defacto complainant's house. The T.V is covered with one year warranty from the date of purchase the T.V was not working properly and all of sudden it was stopped working.

2. The defacto complainant complaining about the disfunction of the T.V to the opposite parties but no body turn up and rectified the defect in the T.V. After repeated requests by the defacto complainant the customer care of opposite party-1 registered the complaint and gave him the reference No.20100933100092 on 10-10-2020. Some executive came and inspected the T.V and informed the defacto complainant the TV screen got damaged and need to check that part and took this part with him. The service personnel informed over phone the screen got damaged due to manufacturing defect and the same was informed to the head office and they will do it earliest. From that day no response from the opposite parties about its position till today no action was taken by the opposite parties.

3. The sale of defective T.V to the complainant and loss of entertainment has caused monetary loss for which the opposite party are legally bound to compensate.

4. Due to inaction, of the opposite parties neither rectifying the defects in the T.V having removed nor replacing the damaged part of the T.V with new one as promised lead the defacto complainant and his family suffered a lot of mental agony and tension. Hence, the complaint.

III. Version of Opposite party-3:

1. The averments made in the complaint are false and not known to him as he is no where related to the alleged transaction and its service. The opposite party-3 is a private shop by name Raj Electronics being owned by a private individual Kotla Veera Raju, the 3rd opposite party is not an authorized service center neither to 1st opposite party nor 2nd opposite party. The opposite party-3 further submitted the name of the 3rd party has been added without any nexus to the case in hand. Without enquiring the facts, the case had been filed the instant complaint against wrong entity for which the 3rd party suffered great

P.V. Durga

financial loss besides the physical strain and mental agony for attending before the Commission by closing his shop during the business hours.

2. In view, of the above circumstances the name of the 3rd opposite party deleted with exemplary costs. Further the opposite party-3 submitted he is no where relates to opposite party-1 and opposite party-2. As mentioned in the complaint that opposite party-1 is the manufacturer of T.V, the opposite party-2 is a dealer from whom the defacto complainant had purchased the T.V it is vexatious litigation. However there is no specific averments made against opposite party-3. And I humbly prays this the Commission to delete the name of opposite party-3 as a party in this complaint.

IV. The complainant filed Evidence Affidavit got the documents marked as Ex A-1 to A-4 and filed Written Arguments in support of his complaint and submitted the oral arguments. Opposite party-3 present in-person, filed Counter, Evidence Affidavit and Written Arguments and submitted the oral arguments.

V. Commission served notice to opposite parties. The opposite party-1 and 2 called absent throughout the proceedings no representation and it is deemed that opposite party-1 and 2 admitted the facts of the complaint.

VI. **Issues:**

- i. Is there is any deficiency in service on the part of the opposite party?
- ii. Is the complainant entitled to any relief asked for?

VII. **Discussion:**

1. Ex A-1 is incorporation certificate of complainant – organization; Ex A-2 is complaint form the defacto complaint to C.R.O proves that the complainant approached Consumer Organization for Redressal; Ex A-3 is a invoice/bill dated 17-12-2019 for purchase of Mitashi Television vide invoice No. VZGZ-SE-10868 for Rs.17,000/- (Rupees seventeen thousand only) from second opposite party; Ex A-4 is a warranty card for one year. The complainant filed citations of District Commission in support of his case,

- i. C.C No.125/2008 D.C.D.R.C of Adilabad
- ii. CC.No.17/2016 of D.C.D.R.C of Tamilnadu

2. Therefore, it is evident from Ex A-1 that defacto complainant had purchased T.V from opposite party-2 for Rs.17,000/- (Rupees seventeen thousand only) the T.V got damaged was proved by registered Ref. No.20100933100092-was given by the customer care of the opposite party-1.

3. In spite of repeated requests of the defacto complainant there was response from the opposite parties and no action was taken to rectify the defects in T.V proves that there is deficiency in service as the part of the opposite party under Sec-2 (ii) C.P. Act.

P.V. Ranga.

4. The opposite party has failed to turnup before the Commission inspite of service of notice (track report filed by the complainant).

5. The above discussion shows that recalcitrant behavior of opposite parties delay in service which is nothing deficiency in service coupled with unfair trade practice as the part of opposite party. On pursuing of the evidence of both sides the complainant never visited the 3rd opposite party to rectifying the defect of the T.V and also the complainant not established that he approached to opposite party-3 for rectifying defect of the T.V. The complainant has checked in opposite parties website and relying on it he added Raj Electronics as opposite party-3 as servicing center. But neither the complainant nor the defacto complainant never visited 3rd opposite party for servicing center of opposite party-1. Without enquiring the facts, as such opposite party-3 suffered financial loss by closing his business and attending every adjournment even though there is no fault on behalf of opposite party-3. Moreover, the complainant or defacto complainant not filed any piece of evidence to fix the liability on opposite party-3.

6. On the above discussion it is clear that opposite party-3 is not a proper party mis joinder in this complaint. We are of the opinion that Complainant/ defacto complainant can't file against any person who is not a party to the complaint, adding any other person unnecessarily as party to complaint leading to mental agony and financial loss to that person.

7. Hence, we are directing the complainant / defacto complainant jointly and severally to pay an amount of Rs.5,000/- (Rupees five thousand only) towards exemplary costs for mis joinder of party

VIII. Result:

In the result, the complaint is partly allowed.

- 1) The opposite parties 1 and 2 are jointly and severally directed to rectify the T.V. problem with in one month from the date of receipt of this order or else opposite parties 1 and 2 are jointly and severally directed to refund an amount of Rs.17,000/- (Rupees seventeen thousand only) to Defacto complainant, apart from Rs.5,000/- (Rupees five thousand only) awarded as costs to the complaint. Time for compliance is 45 days from the date of receipt of this order.
- 2) The complainant and Defacto Complainant Jointly and severally directed to pay an amount of Rs.5,000/- (Rupees five thousand only) to opposite party-3 towards exemplary costs for impleading as a party in this complaint unnecessarily. Time for compliance is 30 days from the date of receipt of this order.

XI. Applications pending, if any, stand disposed off in terms of the aforesaid judgement.

X. A copy of this judgement be provided to all the parties free of cost as mandated by the

P.V. 

Consumer protection Act 1986/2019. The judgement be uploaded forthwith on the website of the Commission for the perusal of the parties.

XI. File be consigned to record room along with a copy of this judgement.

Dictated to the Stenographer, and transcribed by her, corrected and pronounced by us in the Open Commission, the 20th day of March, 2023.

Pronounced on: 20/03/2023


P.V. Anurag.
20.3.23
Smt. P. Vijaya Durga
Women Member

Appendix of Evidence

For the Complainant:

No	Date	Description of Documents	Remarks
Ex A-1	---	Incorporation certificate of Complainant-organization	Attested copy
Ex A-2	19-11-2020	Complaint from the Defacto-complainant to the Complainant-organization	Original
Ex A-3	17-12-2019	Invoice for purchase of T.V	Original
Ex A-4	---	Warranty Card	Original

For the Opposite parties: Nil


20/3/23
President


20/3/23
Member

P.V. Anurag.
20.3.23
W. Member