

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,

ODISHA, CUTTACK**First Appeal No.375/2010**

(From an order dated 12.04.2010 passed by the District
Consumer Disputes Redressal Forum, Bargarh in
Consumer Complaint No. 36/2009)

Customer Care,

M/s.Godrej and Boyce Manufacturing Co.Ltd.,

Appliance Division,Pirojahanagar,Vikroli,

Mumbai-400079.

... **Appellant**

- Versus -

1- Sri Arjun Kumar Mohanty,aged about
47 years, S/o.Late Murli Dhar Mohanty,
Lecturer(Service),Resident of Neherupali,
Ward No.2,Rajborasambar, Padampur,
PO/PS-Padampur,District- Bargarh.

2- Sri Ramkrishna Sahu,Proprietor,
M/s.Samleswari Enterprises,
Neherupali Chowk, Rajborasambar,
Padampur, Dist- Bargarh-768036.

3- Godrej Smart Care,
M/s.Dry Cool Engineering,
Chowana Lane,Govt. Bus Stand,
Saambalpur.

... **Respondents**

Counsel for the Appellant- Sri Debashis Tripathy & Associates.

Counsel for the Respondent No.1 – Sri M.K.Nayak.

PRESENT :- Sri Dillip Kumar Mohapatra, Member.
Sri Hemant Kumar Mohanty, Member.

DATE OF HEARING-13. 09. 2022

DATE OF ORDER- 13.09.2022

ORDER

**Sri Dillip Kumar Mohapatra,
Presiding Member**

This appeal arises out of an order dated 12.04.2010 passed by the learned District Consumer Disputes Redressal Forum, Bargarh in Consumer Complaint No.36/2009 inter-alia allowing the complaint pertaining to deficiency in service.

The case of the complainant is that the complainant had purchased one Godrej Air Conditioner bearing Serial No.G-07C000565, Model No.GWC 18G for a sum of Rs.16,500/- vide Receipt No.514 dt. 18.4.2008 from Opposite Party No.1, who is the authorised dealer of Opposite Party No.3. After using the Air conditioner for about a month, it started giving problems like leakage in discharge pipe and the machine was working but no cooling. On the instruction of O.P No.1, the air conditioner was sent to O.P No.2 for repairing. The O.P No.2 repaired the air conditioner on 22.5.2008. Again on 2.6.2008, the said air conditioner gave same trouble for which all discharge pipes were

replaced by O.P No.2 but the problem still persisted. Despite written complaint to Opp.Parties on dt. 10.3.2009 and 11.4.2009, the defects in the air conditioner were not rectified by the Opp.Parties. Thereafter, the complainant sent a Pleader Notice on 27.4.2009, but the O.Ps remained silent in the matter. Hence, finding no other way out, the complainant filed the consumer complaint before the learned Forum below for replacement of the air conditioner or to refund the cost of the air conditioner with total compensation of Rs.40,000/-for mental agony, taxi fare charges and litigation cost.

The Opposite Party No.1 in its written version stated that on receipt of complaint from the complainant, the air conditioner was sent to Opposite Party No.2 for necessary repairs. The Opposite Party No.2, being the authorised service centre repaired the air conditioner and issued OK report.

The Opposite Party No.2 in its written version stated that being the authorised service centre of Opposite Party No.3, it extended appropriate service to the customer as per complaint list given by the company. As per the terms and conditions of the warranty, the Opp.Party No.2 has repaired and removed all defects in the air conditioner, as such there is no deficeincy in service on its part.

The Opposite Party No.3 has been set ex-parte due to non-appearance.

After hearing the case, the learned Forum below has passed the impugned order directing the Opposite Parties holding them jointly and severally liable to refund Rs.16,500/-, the cost of the air conditioner with 6% interest from the date of purchase i.e. 18.4.2008 till the date of the order with compensation of Rs.3,000/- for mental agony and harassment failing which 18% interest shall be charged on the total awarded amount till the date of payment.

Challenging the impugned order of the learned Forum below, the present appeal has been filed by the Appellant.

During the course of hearing, the learned counsel for the Appellant stated that after purchase of the air conditioner, the same was installed in the premises of the complainant and he was provided with an Warranty Card. As per complaint of the complainant, the same was rectified on 22.5.2008 by replacing the discharge pipe. Again on 2.6.2008, the air conditioner gave some trouble as it reduces its cooling capacity. Since the warranty period subsisted, the same was repaired on 17.3.2009. In spite of the repair being made, the complainant did not receive the same and requested through E-Mail correspondences and



Pleader notice for replacement of the air conditioner within 30.3.2009, failing which he would be constrained to approach the appropriate Forum.

Further, the learned counsel for the Appellant contended that the learned Forum below without considering the objection raised and verifying the documents available on record has come to a conclusion that there was a manufacturing defect in the air conditioner which was not removed inspite of repeated repair by the O.P No.2. As the Opposite Parties have not listened to the request of the complainant, the air conditioner is to be replaced by a new one with the same brand and make which is illegal and arbitrary. It is also contended that the learned Forum below has not applied its judicial mind in proper perspective in as much as has exceeded its jurisdiction. Since the dealer and service provider have rendered their services properly, there is no valid and justifiable reason to impose any penalty directing refund of the amount which is not sustainable in the eyes of law, as such the same is liable to be set aside.

We have heard the learned counsels appearing for the parties, perused the case record, DFR and appeal memo and written notes of argument. It is an admitted fact that the complainant had purchased the



Air Conditioner on 18.4.2008 from Opp.Party No.1/Respondent No.2, who is the dealer of the Appellant. The Opposite Party No.2/Respondent No.3 is the authorised service centre of the Appellant. It is not disputed that on 22.5.2008, just after one month of use the said air conditioner, it developed defect of leakage of discharge pipe and gas leakage from the compressor. On the complaint of the complainant, the Opp.Party No.2 repaired it. On 2.6.2008 and 10.3.2009, it again started giving same problems, which was also rectified by the Opp.Party No.2, but the problems were not rectified properly which still persisted in the air conditioner. It is contended by the complainant that the Opp.Party No.1 on 11.3.2009 in its letter assured the complainant that he would bring the air conditioner to proper order shortly, but when the problem of the complainant was not solved, inspite of his several approaches, he sent a pleader notice on 27.4.2009. Despite of his repeated requests in person as well as through correspondences to all the Opposite Parties, the problem in the air conditioner was not rectified, for which he was constrained to file the complaint before the learned Forum below.

We find from the record that on 22.5.2008, just after one month of purchase of air conditioner it developed defect and the same was repaired by the O.P No.2, again same defects were detected on

02.06.2008 again it was repaired, then again on 10.3.2009 same defects were detected. The O.P No.1, on 11.3.2009 wrote a letter to complainant that he would bring the air conditioner to proper order but the same was not done by the O.P No.1 and 2 for which on 27.4.2009 the complainant sent a pleader notice to O.P No.3.

We find that inspite of repairing of air conditioner by O.P No.2 for 3 times, the same defects were not rectified. Learned Forum below has elaborately discussed the matter and has rightly come to conclusion that O.P No.1 and 3 are jointly and severally liable for the deficiency in providing service to complainant and rightly passed the impugned order directing the O.P No.1 and 3 to refund Rs.16,500/- with 6% interest per annum from the date of purchase of air conditioner i.e. dt. 18.4.2008 and Rs.3,000/- towards compensation for mental agony and litigation cost.

Hence, we direct the appellant to refund Rs. 16,500/-, the purchase price of the air conditioner along with an interest @6% per annum from the date of purchase i.e. 18.04.2008 to complainant and Rs.3,000/- towards compensation for mental agony and litigation cost within 45 days of receipt of this order, failing which 18% interest shall be charged on the entire awarded amount till the date of

payment.

Hence, the appeal is dismissed.

No costs.

Free copy of the Order be supplied to the respective parties or they may down load the same from the Confonet or Website of this Commission to treat the same as copy of the Order received from this Commission.

Send back the DFR.



(H.K.Mohanty)
Member



(D.K.Mohapatra)
Member