

**BEFORE THE CONSUMER DISPUTES REDRESSAL FORUM  
ERNAKULAM**

**Complaint Case No. CC/18/406  
( Date of Filing : 29 Sep 2018 )**

1. GEORGE JOSEPH  
KURIYEDATH H EDAPPURAM ASOKAPURAM ALUVA .....Complainant(s)  
Versus

1. GLOSSY TILES  
8A NH MATEL RD DHUVA 363 622 TAL WANKANER  
RAJKOT GUJARAT .....Opp.Party(s)

**BEFORE:**

**HON'BLE MR. D.B BINU PRESIDENT  
HON'BLE MR. RAMACHANDRAN .V MEMBER  
HON'BLE MRS. SREEVIDHIA T.N MEMBER**

**PRESENT:**

**Dated : 11 Aug 2023**

**Final Order / Judgement**

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION ERNAKULAM**

Dated this the 11<sup>th</sup> day of August 2023.

Filed on: 29/09/2018

**PRESENT**

Shri.D.B.Binu	President
Shri.V.Ramachandran	Member Smt.Sreevidhia.T.N
Member	

**C.C. No 406/ 2018**

**COMPLAINANT:**

George Joseph, S/o Joseph, Kuriyedeth House, Edappuram, Asokapuram P.O, Aluva

**(By Adv.Sabu P.Joseph, Legalis Remedia, 1<sup>st</sup> Floor, Koyikkal Chambers, C.P.**

**VS**

**OPPOSITE PARTIES:**

1. Glossy Tiles, SA, National Highway, Matel Road, Dhuva 363 622 Tal Wankaner Dist. Rajkot, Gujarat , India , represented by its Managing Director
2. Proprietor, M/s Bharath Tiles and Granites, Erumathala P.O, Aluva.

**FINAL ORDER****D.B. Binu, President.****1). A brief statement of facts of this complaint is as stated below:**

The complaint has been filed under Section 12 (1) of the Consumer Protection Act, 1986. The brief facts, as averred in the complaint, are that the complainant, who works in the Water Authority Department, purchased 310 pieces of Bathroom Wall Tiles and 52 pieces of Bathroom Floor Tiles from the second opposite party (a dealer of tiles and sanitaryware) on 24/02/2018, for a total amount of Rs. 11,105/- including tax. The wall tiles were manufactured by the first opposite party (the ceramic tiles manufacturer).

Before making the purchase, the complainant enquired about the quality of the tiles and was assured by the sales representative of the second opposite party that the tiles were of superior quality and durable. The second opposite party also promised to replace the tiles within one year if any cracks or color fading occurred.

After laying the tiles in the bathroom of his newly constructed house, the complainant discovered that the tiles were faded and discolored within a few days. He immediately informed the second opposite party, who promised to send a representative to inspect the complaint and replace the tiles if genuine. However, they did not fulfil their promise and ignored the complainant's repeated requests for replacement.

The second opposite party asked the complainant to take photographs of the defective tiles and show them, which he did. The second opposite party confirmed the defect and assured replacement, but again no action was taken. The complainant found out that the second opposite party had issued a forged bill in the name of another company.

The first opposite party (the tile manufacturer) also failed to ensure the quality of the product as per standards, adding to the complainant's troubles. Due to the reckless and negligent behavior of both opposite parties, the complainant suffered physical and mental agony, financial losses, and embarrassment in front of relatives and friends.

The complainant sent a lawyer's notice to both opposite parties, but the first opposite party did not reply, and the notice to the second opposite party was returned as "not known," suggesting

they deliberately evaded it.

The complainant is seeking relief from the Commission, which includes the replacement of defective tiles, payment of Rs. 13,500 for labor charges, payment of Rs. 15,000 for removing defective tiles, Rs. 50,000 compensation for inconvenience and mental agony, and costs of the proceedings.

## **2). Notice**

The Commission issued notices to the opposite parties, but they did not file their versions. Consequently, the opposite parties are set ex-parte.

## **3) . Evidence**

The complainant had filed a proof affidavit and 5 documents that were marked Exhibit A-1 to A-5.

1. **Exhibit A-1:** Copy of Invoice no. 211 dated 24.02.2018 issued by the 2nd opposite party.
2. **Exhibit A 2:** Office copy of lawyer notice dated 23.06.2018.
3. **Exhibit A 3:** Acknowledgment card of 1st opposite party.
4. **Exhibit A 4:** Returned postal envelope of the 2nd opposite party
5. **Exhibit A 5 series:** Photographs showing the defective tiles

## **4) The main points to be analyzed in this case are as follows:**

- i) Whether the complaint is maintainable or not?
  - ii) Whether there is any deficiency in service or unfair trade practice from the side of the opposite parties to the complainant?
  - iii) If so, whether the complainant is entitled to get any relief from the side of the opposite parties?
- iv) Costs of the proceedings if any?

## **5) The issues mentioned above are considered together and are answered as follows:**

As per Section 2 (1) (d) of the Consumer Protection Act, 1986, a consumer is a person who buys any goods or hires or avails of any services for a consideration that has been paid or promised or partly paid and partly promised, or under any system of deferred payment. The complainant had produced a Copy of Invoice no. 211 dated 24.02.2018 issued by the 2nd opposite party. (**Exhibits A-1**). The document revealed that the complainant had paid the requisite consideration for the product to the opposite parties. Therefore, we are only to hold that the complainant is a consumer as defined under the Consumer Protection Act, of 1986 (Point No. i) goes against the opposite party.

The learned counsel for the complainant submitted that The Copy of Invoice no. 211 dated 24.02.2018 issued by the 2nd opposite party (**Exhibit A-1**) This exhibit is crucial as it serves as

documentary evidence of the complainant's purchase from the second opposite party.

An Office copy of the lawyer's notice dated 23.06.2018 has been submitted by the complainant (**Exhibit A-2**). This exhibit is significant as it confirms that the complainant took formal legal action by sending a lawyer's notice to both opposite parties regarding the issue.

The complainant has presented an Acknowledgment card of 1st opposite party (**Exhibit A-3**). This exhibit indicates that the complainant communicated with the first opposite party regarding the defective tiles issue.

The Returned postal envelope of the 2nd opposite party has been included as evidence. (**Exhibit A-4**). This exhibit is important as it confirms that the second opposite party deliberately evaded the lawyer's notice, as it was returned with the status "not known."

A series of Photographs showing the defective tiles has been provided by the complainant (**Exhibit A-5 Series**). These photographs are crucial visual evidence that depicts the faded and discoloured tiles, reinforcing the complainant's claims of receiving defective products.

The evidence presented included an ex-parte proof affidavit filed by the complainant, and it was unchallenged by the opposite parties. Therefore, the complainant's claims were considered credible and supported by the evidence. Therefore, the complainant requests the commission to grant the relief sought, including compensation for mental agony and unfair trade practices.

The opposite parties' conscious failure to file their written version in spite of having received the Commission's notice to that effect amounts to an admission of the allegations levelled against them. Here, the case of the complainant stands unchallenged by the opposite parties. We have no reason to disbelieve the words of the complainant as against the opposite parties. **The Hon'ble National Commission held a similar stance in its order dated 2017 (4) CPR page 590 (NC).**

Before making the purchase, the complainant enquired about the quality of the tiles and was assured by the sales representative of the second opposite party that the tiles were of superior quality and durable. The second opposite party also promised to replace the tiles within one year if any cracks or colour fading occurred.

However, after laying the tiles in the bathroom of his newly constructed house, the complainant discovered that the tiles were faded and discoloured within a few days. He immediately informed the second opposite party, who promised to send a representative to inspect the complaint and replace the tiles if genuine. Despite numerous follow-ups and repeated requests from the complainant, the second opposite party did not fulfil their promise and chose to ignore the matter altogether.

The second opposite party asked the complainant to take photographs of the defective tiles and show them, which he did. The second opposite party confirmed the defect and assured replacement, but again no action was taken. The complainant found out that the second opposite party had issued a forged bill in the name of another company.

Moreover, the first opposite party (the tile manufacturer) also failed to ensure the quality of the product as per standards, adding to the complainant's troubles. Due to the reckless and negligent behaviour of both opposite parties, the complainant suffered physical and mental agony, financial losses, and embarrassment in front of relatives and friends.

The complainant sent a lawyer's notice to both opposite parties, but the first opposite party did not reply, and the notice to the second opposite party was returned as "not known," suggesting they deliberately evaded it.

Having issued notices to the opposite parties, and receiving no response from them, the opposite parties are set ex-parte. The evidence provided by the complainant includes a proof affidavit and the aforementioned Exhibits A-1 to A-5.

The opposite parties had inadequately performed the service as contracted with the complainant and hence there is a deficiency in service, negligence, and failure on the part of the opposite parties in failing to provide the Complainant desired service which in turn has caused mental agony and hardship, and financial loss, to the Complainant.

Considering the unchallenged evidence and the complainant's claims, this Commission finds a clear deficiency in service, negligence, and unfair trade practices on the part of both the first and second opposite parties. Their actions have caused immense inconvenience, mental agony, hardships, financial loss, and embarrassment to the complainant.

We find the issues Nos. (II) to (IV) are in favour of the complainant for the serious deficiency in service that happened on the side of the opposite parties. Naturally, the complainant had suffered a lot of inconvenience, mental agony, hardships, financial loss, etc. due to the negligence on the part of the opposite parties.

In view of the above facts and circumstances of the case, we are of the opinion that the opposite parties are liable to compensate the complainant.

Hence the prayer is partly allowed as follows:

- i. The opposite parties shall refund an amount of Rs.11,105/- to the complainant paid by him towards the cost of the tiles as per Exhibits A-1.
- ii. The opposite parties shall pay the complainant a sum of Rs.40,000/- as compensation for financial losses, mental agony, and hardships caused by the negligence.
- iii. The opposite parties shall also pay the complainant Rs.10,000/- towards the cost of the proceedings.

The opposite parties shall be jointly and severally liable for the above-mentioned directions which shall be complied with by the Opposite Parties within 30 days from the date of the receipt of a copy of this order failing which the amount ordered vide (i) and (ii) above shall attract interest @9.5% from the date of deposit till realization.

Pronounced in the Open Commission this 11<sup>th</sup> day of August  
2023

Sd/-

D.B.Binu, President

Sd/-

V.Ramachandran, Member

Sd/-

Sreevidhia T.N., Member

Forwarded by Order

Assistant Registrar

## **Appendix**

### **Complainant's Evidence**

1. **Exhibit A-1:** Copy of Invoice no. 211 dated 24.02.2018 issued by the 2nd opposite party.
2. **Exhibit A 2:** Office copy of lawyer notice dated 23.06.2018.
3. **Exhibit A 3:** Acknowledgment card of 1st opposite party.
4. **Exhibit A 4:** Returned postal envelope of the 2nd opposite party
5. **Exhibit A 5 series:** Photographs showing the defective tiles

**C.C. No 406/ 2018**

Order dated 11.08.2023

Uk/hp

**[HON'BLE MR. D.B BINU]  
PRESIDENT**

**[HON'BLE MR. RAMACHANDRAN .V]  
MEMBER**

**[HON'BLE MRS. SREEVIDHIA T.N]  
MEMBER**