

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-I,
U.T. CHANDIGARH**

Consumer Complaint No.	:	CC/509/2023
Date of Institution	:	23.10.2023
Date of Decision	:	2/04/2024

AMIT KUMAR s/o Sh. Pawan Kumar r/o 1575 SECTOR 38-B, CHANDIGARH 160014

Versus

1. STAY VISTA PRIVATE LIMITED, Surya Mahal 4th Floor, 5 Burjorji Bharucha Marg, Fort, Mumbai, MH 400001 IN.

2. The Hideaway Cottage, situated in Village Oal Panchayat Chaamon, PO Ghaighat, Kasauli, Solan, Himachal Pradesh - 173229

... Opposite Parties

CORAM :

SHRI PAWANJIT SINGH	PRESIDENT
MRS. SURJEET KAUR	MEMBER
SHRI SURESH KUMAR SARDANA	MEMBER

ARGUED BY : Sh. Rakesh Gupta, Advocate for complainant
: OPs exparte.

Per Pawanjit Singh, President

1. The present consumer complaint has been filed by the complainant under Section 35 of the Consumer Protection Act 2019 against the opposite parties (hereinafter referred to as the OPs). The brief facts of the case are as under :-
 - a. It transpires from the averments as projected in the consumer complaint that on 22.5.2023 the complainant booked three hotel rooms through online website www.swtayvista.com i.e. through OP No.1 at a property referred to as "The Hideaway Cottage situated in village Oal Panchaya chaamon, PO Ghaighat, Kasauli Solan, Himachal Pradesh w.e.f. 23.5.2023 i.e. check in date to 24.5.2023 i.e. the check out date by paying amount of Rs.34,718/-. Copy of email confirming the booking alongwith payment details is annexed as Annexure A-1. As per booking confirmation email dated 22.5.2023 it was confirmed that the hotel in question is situated in Kasauli. However later on it came to the notice of the complainant that the said hotel is not in Kasauli rather the same is located 30 KM away from Kasauli. On 23.5.2023 when the group consisting of 4 adults, 2 seniors citizens and 2 children by travelling in two vehicles reached about 2.5. KM before the subject hotel, they found that there was no link road leading to the property and the link road leading to the subject hotel was unsuitable for motor

vehicles. It was also found that the access road leading to property was steep, highly hazardous, narrow and strewn with sharp stones. In this manner, after reaching at hotel they found the conditions of the hotel was also not upto the mark. Accordingly, they requested the hotel staff to cancel the booking and refund the full amount. Thereafter the complainant also requested the OPs to make arrangement at alternative hotels/properties at Kasauli or Chail and even the complainant expressed his willingness to pay a higher price if necessary to cover any difference in tariff. However the staff of the OPs refused to accept the request of the complainant. Thereafter the complainant tried to approach the OPs through messages and phone call but they were irresponsive. The copies of emails, calls record is annexed as Annexure A-2(colly). It is averred that in fact the hotel was situated in Parwanoo and not in Kasauli and in this manner the OPs have deceitfully misled the complainant and other people by claiming that the hotel is situated at Kasauli. Thereafter, the complainant requested the OPs regularly for refund of the amount or to make alternative arrangement but nothing has been done by the OPs. In this manner, the aforesaid act amounts to deficiency in service and unfair trade practice on the part of OPs. OPs were requested several times to admit the claim, but, with no result. Hence, the present consumer complaint.

b. OPs were properly served and when OPs did not turn up before this Commission, despite proper service, they were proceeded against ex-parte on 3.1.2024.

2. In order to prove their case, complainant tendered/proved his evidence by way of affidavit and supporting documents.

3. We have heard the learned counsel for the complainant and also gone through the file carefully.

i. At the very outset, it may be observed that when it is an admitted case of the complainant that the complainant booked three rooms in the hotel of OP No.2, being managed by OP No.1 by paying an amount of Rs.34718/- as is also evident from Annexure A-1 and OPs confirmed the booking through mail by claiming that the location of the subject hotel is in Kasauli and after reaching at the subject hotel, the complainant and other family members found that the subject hotel was not situated at Kasauli rather the same was located near Parwanoo i.e. far away from the Kasauli, the case is reduced to a narrow compass as it is to be determined if the aforesaid act of the OPs amounts to deficiency in service and unfair trade practice and the complainant is entitled for the relief as prayed and for that purpose the documentary evidence led by the complainant is required to be scanned carefully.

ii. Perusal of Annexure A-1 clearly indicates that the complainant booked three rooms with check in date 23.5.2023 and check out date as 24.5.2023 and location of the subject hotel was shown at Kasauli. Annexure A-2 clearly indicates that the complainant after reaching at the spot found that the approach road to the hotel was very narrow and steep unsuitable for the motor vehicles and even the subject hotel was not found in good condition and also on finding that the subject hotel was far away from Kasauli and is located near Parwanoo where the temperature is altogether higher than Kasauli, immediately sent messages, emails and phone calls to the OPs but the same were not responded by the OPs. Not only this the complainant requested the OPs either to refund the amount or to make alternative arrangement in some other hotel near Kasauli or Chail and the said request of the complainant was not accepted by the OPs. Thereafter the complainant was compelled to send legal notice A-3 which was not replied by the OPs. Thus, the aforesaid act of the OPs amounts to amounts to deficiency in service and unfair trade practice on its part, especially when the entire case set up by the complainant in the consumer complaint as well as the evidence available on record is unrebutted by the OPs. Hence, the instant consumer complaint deserves to be allowed.

4. In the light of the aforesaid discussion, the present consumer complaint succeeds, the same is hereby partly allowed and OPs are directed as under :-

- i. to pay ₹34718/- to the complainant alongwith interest @ 9% per annum from 24.5.2023 till onwards.
- ii. to pay an amount of ₹5,000/- to the complainant as compensation for causing mental agony and harassment to him;
- iii. to pay ₹10,000/- to the complainant as costs of litigation.

5. This order be complied with by the OPs within 45 days from the date of receipt of its certified copy, failing which, they shall make the payment of the amounts mentioned at Sr.No.(i) & (ii) above, with

interest @ 12% per annum from the date of this order, till realization, apart from compliance of direction at Sr.No.(iii) above.

6. Pending miscellaneous application(s), if any, also stands disposed off.

7. Certified copies of this order be sent to the parties free of charge. The file be consigned.

Announced

Sd/-

2/04/2024

[Pawanjit Singh]

mp

President

Sd/-

[Surjeet Kaur]

Member

Sd/-

[Suresh Kumar Sardana]

Member