

Amazon Seller Services Pvt. Ltd. vs Sanjeev Sharma And Another on 25 August, 2022

Daily Order

STATE CONSUMER DISPUTES REDRESSAL COMMISSION HARYANA, PANCHKULA

Date of Institution: 08.11.2018

Date of Final Hearing: 25.08.2022

Date of pronouncement: 11.11.2022

Amazon Seller Services Private Limited, Registered office at Brigade Gateway, 8th Floor,

.....Appellant

Versus

1. Sanjeev Sharma S/o Sh.Ishwar Dayal, House No.301, Bajaj Colony, Gali No.3, Kaith

2. Surana Traders F-2, Nucleus Mall 1, Church Road, Opp. Pune Commissioner Office,

.....Respondents

CORAM: Mr.S.P.Sood, Judicial Member

Mr. Suresh Chander Kaushik, Member Present:- None for the appellant.

Mr.H.S.Kasan, counsel for respondent No.1.

RespondentNo.2 ex parte.

ORDER S P SOOD, JUDICIAL MEMBER:

The brief facts of the case are that the complainant purchased a camera Canon-EOS 5D Mark 3 22.3 MP Digital SLR Black of Rs.1,99,990/- from the opposite party No.1 through online order dated 25.01.2017. On 29.01.2017, the camera was delivered by OP No.1 through courier. When he opened the box, he found that defective canon EOS 1000 camera without battery instead of cannon EOS 5D Mark 3 22.3 MP digital SLR camera ordered to OP No.1. He made complaint through email on the same day. On 06.02.2017, he filed A To Z form for return the defective camera, till date OPs had not picked the defective camera for exchange. Faced with this situation, he sent legal notice dated 08.03.2017 to the OPs to refund the amount, but to no avail. Thus there was deficiency in service on the part of the OPs.

2. OP No.2 was proceeded against ex parte. OP No.1 filed separate written statement denying the allegations. Further, OP also alleged that the complainant has not bought any goods from Amazon Seller Services Pvt. Ltd. (ASSPL), therefore the complainant has wrongly impleaded it as party to the complaint. The ASSPL only provides an online market place, where third party sellers can list their products for sale; but the sellers were themselves responsible for their respective listings and products on the website. The ASSPL was not involved in the sale transaction between customer and seller. The product was delivered to him in a sealed box condition. He never approached the OP NO.1 with any complaint with regard to product in question. There was no deficiency in service on the part of answering OP. Objections about maintainability of complaint, locus standi, accruing cause of action and jurisdiction etc. were also raised and requested to dismiss the complaint.

3. After hearing both the parties, the learned District Commission, Kaithal has allowed the complaint vide order dated 30.08.2018. Relevant portion is reproduced as under:-

"Thus, as a sequel of above discussion, we allow the complaint and direct the Ops to refund Rs.1,99,990/- to the complainant with interest @ 8% p.a. from the date of filing this complaint till its realization. The OPs are also burdened with costs of Rs.5500/- as compensation for harassment, mental agony and costs of litigation charges to the complainant. Both the OPs are jointly and severally liable."

4. Feeling aggrieved therefrom, OP No.1-appellant has preferred this appeal.

5. None has appeared on behalf of the appellant. The argument has been advanced by Mr.H.S. Kasan, learned counsel for the respondent No.1. With his kind assistance the entire record of the appeal as well as the original record of the District Commission including whatever the evidence has been led on behalf of both the parties has also been properly perused and examined.

6. Learned counsel for the complainant-respondent No.1 vehemently argued that opposite party no.1 delivered wrong and defective camera without battery and instead of canon EOS 5D Mark 3 22.3 MP digital SLR camera. He immediately complained about the defective and wrong camera being delivered to the OP No.1, but, to no avail. He also filed A to Z form for return of the wrong and defective camera but again still without avail. He requested the OPs to refund the amount, but, till date the complainant did not receive even a single penny.

7. It is not disputed that camera purchased by the complainant was not the one which he actually intended to buy and further it was defective and when the box was opened, he immediately complained about both the problems of the camera to the opposite party No.1. As per Ex.C-5, the complainant ordered to purchase Canon EOS 5D Mark 3 22.3 MP Digital SLR Camera (Black) with body worth Rs.1,99,990/- only through OP No.1, but, the OP No.1 delivered defective and some other camera to him. He requested the OP No.1 to return the same, but, they refused to return the same. Perusal of the file shows that the complainant is entitled for the refund as the online policy stipulates that if the goods were not exactly what was ordered by the buyer, then of course the buyer can ask for replace or refund the online product from the seller within stipulated time. Since the product was defective so, the complainant is rightly held entitled for refund of Rs.1,99,990/-. The opposite parties were collectively responsible for supplying defective camera to the complainant and thus will be bound to refund the price of camera i.e. Rs.1,99,990/- to the complainant. The learned District Commission rightly allowed the complaint endorsing that the opposite party failed to resolve the grievance of complainant, which was unfair trade practice.

8. Resultantly, the contentions raised on behalf of the present appellant in his grounds of appeal and other communications stands rejected as rendered no assistance and found to be untenable and the order passed by the learned District Commission does not suffer from any illegality or perversity and is well reasoned and accordingly stands maintained for all intents and purposes. Hence, the appeal stands dismissed.

9. The statutory amount of Rs.2,00,000/- and Rs.25,000/- deposited at the time of filing the appeal be refunded to the complainant-respondent No.1 against proper receipt and identification in accordance with rules, after the expiry of period of appeal and revision, if any filed in this case.

10. Applications pending, if any stand disposed of in terms of the aforesaid judgment.

11. A copy of this order be provided to all the parties free of cost as mandated by the Consumer Protection Act, 1986/2019. The order be uploaded forthwith on the website of the commission for the perusal of the parties.

12. File be consigned to record room.

11th November, 2022
Member

Suresh Chander Kaushik
Judicial Member

S. P. Sood
S.K (Pvt. Secy.)