

(2009) 09 NCDRC CK 0018

In the National Consumer Disputes Redressal Commission

Canon India Pvt. Ltd. and Anr.

APPELLANT

Vs

Venkateswara Copying Centre and Anr.

RESPONDENT

Date of Decision : 08-09-2009

Acts Referred:

Citation : 2009 4 CPJ 282 : 2010 1 UC 391

Hon'ble Judges : J.

Final Decision : Petition dismissed

Judgement

1. THE Complainant had purchased a Canon Xerox Machine Model No. NF -7120 on 30.5.2003 for a sum of Rs. 73,500 from Opposite Party No. 1, Bhawana Enterprises. The said Xerox machine developed problems within 30 days and the same were not attended to by the Opposite Parties. According to the Complainant he had purchased the said machine for earning livelihood by way of self employment, Accordingly, the complainant had filed a complaint before the District Forum. The Opposite Party No. 2, Canon India Pvt. Ltd. contested the complaint on the ground that Opposite Party No. 2 was not authorised dealer and they were not aware of any purchase of Xerox machine by the complainant from. Opposite Party No. 1 and since Opposite Party No. 2 only is empowered to give warranty on items manufactured by their Group of Companies and marketed by Opposite Party No. 2 in India, Opposite Party No. 2 is not responsible for any defects in the Xerox machine in question.

2. THE District Forum allowed the complaint and directed the Opposite Party No. 2 to refund the sum of Rs. 73,500 with 9% interest and cost of Rs. 2,000. This order was challenged by Opposite Party No. 2 before the State Commission. The State Commission held that the Xerox machine had developed problems within the warranty period of 3 years which were not rectified. The State Commission took into consideration that the Complainant had filed an affidavit that the Opposite Party No. 2/ Petitioner had sent its technician to rectify the defects of the machine and as against this, Opposite Party No. 2/Petitioner did not file any affidavit denying the said statement of the Complainant that the Petitioner had

sent their technician for the purpose of repair the Xerox machine. It was further held that if there was no relationship between the Opposite Party No. 1/Petitioner and the Complainant, the Petitioner would not have sent their technician to attend on the repairs of Xerox machine in question. The State Commission further held that the District Forum should not have directed the replacement of the Xerox machine or cost thereof but could only direct replacement of defective parts. Accordingly, the State Commission modified the order of the District Forum and directed the present Petitioner/ Opposite Party No. 2 to rectify the defects of Canon Xerox machine free of cost and taking into consideration hardship suffered by the Complainant, compensation of Rs. 5,000 was awarded as also cost of Rs. 2,000. This order is challenged before this Commission. Before the Commission it was sought to be argued that the xerox machine in question had been imported by someone else and it was purchased from grey market. This plea was never specifically taken by the present Petitioner before the District Forum. It was never disputed that the xerox machine in question was not manufactured by Cannon. The only ground taken was that the said xerox machine was purchased from Opposite Party No. 1, who was not its authorised dealer. Learned Counsel for the Petitioner also sought to place reliance on a judgment of the Delhi High Court in Canon Singapur Put. Ltd. and Anr. v. B.E. Office Automation Product Pvt. Ltd. and Anr., filed before the Delhi High Court and in this respect our attention was drawn to the statement of Mr. Ram Bhagat. However, Learned Counsel for the Petitioner was not able to show as to how Ram Bhagat was connected with Bhawna Enterprises. Accordingly reliance placed by Learned Counsel for the Petitioner on the said judgment is totally misplaced. We have not been able to understand as to why dealers of reputed companies in India do not follow the practice of dealers in foreign countries where even the goods are replaced without demur on a complaint made by a consumer. In the circumstances, once the genuineness of the xerox machine as manufactured by Canon was not disputed, it was bounden duty of the Petitioners who claim themselves to the sole representative of Canon Company in India to rectify the defects in the xerox machine. The directions given by the State Commission to that effect are just, fair and equitable and a very nominal compensation of Rs. 5,000, besides costs have been imposed. In the facts and circumstances, we are not inclined to interfere with the order of the State Commission in the exercise of revisional jurisdiction under Section 21 (b) of Consumer Protection Act, 1986 as we do not find any material irregularity, illegality or jurisdictional error in the order of State Commission. The revision is accordingly dismissed with no order as to costs.