

(1999) 07 NCDRC CK 0008

In the National Consumer Disputes Redressal Commission

CONCEPT MARKETING

APPELLANT

Vs

HARVINDER SINGH SAINI

RESPONDENT

Date of Decision : 21-07-1999

Acts Referred:

Citation : 2000 1 CLT 441 : 2000 2 CPC 346 : 2000 2 CPJ 332

Hon'ble Judges : J.B.Garg , P.K.Vasudeva , Devinderjit Dhatt J.

Final Decision : Appeal dismissed with costs

Judgement

1. ON a complaint instituted by Harvinder Singh Saini, the District Forum-II ordered on 28.7.1998 that the two respondents named in the complaint shall refund the sum of Rs. 22,900/- together with interest @ 15% p.a. from the date of deposit of the aforesaid price and costs Rs. 2,500/-. Aggrieved against it, Concept Marketing, the local dealer has attempted this appeal.

2. THE complainant alleged that he is a handicapped person and in order to earn his livelihood he proposed to instal a Public Call Telephone at Mohali. In this regard he handed over a bank draft for Rs. 22,900/- on 17.10.1992 to Concept Marketing so that a PCO machine could be delivered to him. Though the dealer undertook to deliver it early yet he failed to do so despite several visits and letters. THE fact that Concept Marketing, the appellant had received the sum of Rs. 22,900/- through bank draft and that it had undertaken to deliver a PCO machine was not disputed at any stage. THE plea of the dealer, now appellant in the District Forum was that it was actually delivered on 24.10.1992 and signatures of the complainant were obtained on an invoice. THE dealer did not produce the original invoice containing alleged signatures of the complainant in token of the receipt of the PCO machine. Though the aforesaid dealer was required to produce the original receipt on 23.1.1995 and again on 17.2.1995 in the Forum. It was never the case of the appellant that he did not or no longer possessed the original receipt containing signatures of the complainant. Withholding of this important piece of evidence goes against the dealer, now appellant. THE mere fact that the complainant has also now averred that the

signatures on a receipt claimed to be in his possession by the dealer may be forged one would itself not take the complaint out of the purview of the Forum. Sh. Sarvdeep Singh proprietor of Concept Marketing specifically named in the complaint and who has now attempted this appeal did not file any affidavit in support of his plea that PCO machine was delivered to Harvinder Singh Saini, the complainant. Mr. Vivek Sharma, Advocate who has appeared for Pure Sine Electronics (P) Ltd., Bangalore has pointed out that it only supplied such machines to Concept Marketing the local dealer and there was no privity of contract with the complainant. In these circumstances the impugned order qua respondent No. 2 is hereby set aside whereas it stands affirmed against Concept Marketing and the present appeal stands dismissed with costs Rs. 500/-. Appeal dismissed with costs.