
(2001) 04 NCDRC CK 0044

In the National Consumer Disputes Redressal Commission

INSTITUTIONAL TECHNICAL SUPPLIERS

APPELLANT

Vs

JOSEY JOSEPH

RESPONDENT

Date of Decision : 20-04-2001

Acts Referred:

Citation : 2001 3 CPJ 563 : 2001 3 CPR 169

Hon'ble Judges : L.Manoharan , R.Vijayakrishnan J.

Final Decision : Appeal dismissed

Judgement

1. THE first opposite party in O.P. No. 416/1999 on the file of the Consumer Disputes Redressal Forum, Thiruvananthapuram is the appellant. Complainant's grievance was that the opposite parties 1 and 2 gave wide publicity for their Namtech Caller Identifier Machine and persuaded by the advertisement he purchased a machine on payment of its price. On installing the same it was discovered that the same is not functioning properly. On 30.7.1999 technician came and replaced it with a new set. It did not yielded any result. He further alleged the opposite party deliberately suppressed that such call monitor facility is not available in the locality. First and second opposite parties contested the matter. THEy admitted to their having sold the equipment but pleaded, they are not responsible for the non-functioning of the call monitor. Complainant gave evidence as P.W. 1 and Exbts. P1 to P6 were produced. Opposite party did not produce any evidence either oral or documentary. District Forum made a direction to return the purchase price with interest. Costs was also allowed. It is the said direction that is under challenge in this appeal.

2. LEARNED Counsel for the appellant urged that since the equipment did not have any defect; the order is infirm, and that the view taken by the District Forum that the appellant was aware as to the change of the Exchange is not correct and, therefore, on the said two grounds the order is liable to be set aside. We have perused the impugned order. The District Forum discussed the whole matter exhaustively in Point Nos. 1 and 2. The view taken by the District Forum is that the opposite parties who are the dealers who works in the field of

communication must be imputed with the knowledge of change of Exchange and once it is found that the Niyamasabha Exchange does not have the facility to operate such a mechanism, they should not have offered such an instrument to the complainant for functioning of the same in that area. It is on the basis of the said reasoning that the District Forum made the aforesaid direction. It is not as such the defect in the instrument that now the basis. The only point to be considered is, whether the view of the District Forum that the opposite parties were aware of the change of Exchange is correct. What is to be noted is the close proximity of the sale of the equipment hardly 24 hours before the change of exchange; if they knew that, the Exchange is going to be changed they cannot have justification in selling the equipment which cannot function in that area. P.W. 1 has sworn to the aforesaid aspect, on behalf of the opposite parties none gave evidence to the contrary nor did they file any affidavit stating that they were not aware of the said fact when they sold the instrument. When such is the situation the view expressed by the District Forum since is supported by evidence of D.W. 1, the same cannot be assailed. In that regard we do not see anything to interfere, appeal fails, dismissed. Appeal dismissed.