

(2008) 01 NCDRC CK 0037

In the National Consumer Disputes Redressal Commission

VAISHNAV GIFT CENTRE

APPELLANT

Vs

KAPIL KUMAR

RESPONDENT

Date of Decision : 18-01-2008

Acts Referred:

Citation : 2008 2 CPJ 377

Hon'ble Judges : N.K.Jain , Pramila S.Kumar J.

Final Decision : Appeal partly allowed

Judgement

1. HEARD. IT was a case where a mobile hand set manufactured by respondent No. 2 M/s. Nokia India Pvt. Ltd. and purchased by respondent No. 1 complainant from appellant, a retailer was found defective.

2. AS per respondent's No. 2 own showing the mobile hand-set was replaced by a new one and handed-over to appellant-dealer for delivery to respondent No. 1-complainant. However, this hand set was also found to be old and used one. Be that as it may, the fact remains that the hand set purchased by respondent No. 1-complainant defective and as such both the appellant and respondent No. 2-company were jointly and severally, liable to replace the same or refund its price to the complainant. However, the Forum below has held appellant alone liable for replacement of the hand set. However, we do not agree with this approach of the District Forum. Respondent No. 2 being manufacturer of the said item was jointly and severally along with appellant, was liable to replace the same. We accordingly allow the appeal and direct that the responsibility to comply the order of the District Forum shall be joint and several of both the appellant and respondent No. 2. The order impugned shall stand modified accordingly. Before receiving any new hand-set, respondent No. 1-complainant shall deposit the old one with respondent No. 2 or its service centre the respondent No. 3. There shall be no order as to the cost of this appeal. Appeal partly allowed.