

**IN THE DELHI STATE CONSUMER DISPUTES REDRESSAL COMMISSION****Date of Institution : 28.09.2015****Date of Reserving the order : 10.03.2025****Date of Decision : 18.06.2025****CC No. 891/2015****IN THE MATTER OF****Mr. Amit Bharana**

S/o Late Sh. B.S. Bharana

R/o C-146, Sarvodya Enclave,

Delhi-110017

**(Through: Mr. Rakesh Kumar, Advocate)****.....Complainant****VERSUS****1. Mobulous Technologies Pvt. Ltd.****(Through: Mr. Rajeev Goswami, Advocate)****.....Opposite Party No. 1**

(Through its Directors)

**2. Mr. Piyush****3. Mr. Anil Sharma****4. Mr. Alok Singh****5. Mr. Tanuj Bahuguna****6. Mr. Sarthak Gupta**All at: P-44, Ledger Account, Pandav Nagar,

Mayur Vihar, Phase-1, New Delhi

Also at: H-35, Second Floor,

Sector-63, Noida-201301

**(Opposite Party No. 2 to 6 were deleted from  
array of parties vide order dated 03.12.2015)**

**CORAM:****HON'BLE MS. BIMLA KUMARI, PRESIDING MEMBER**

Present: Mr. Achin Goel, counsel for the Complainant  
None for the Opposite Party No. 1.

**PER: HON'BLE MS. BIMLA KUMARI, PRESIDING MEMBER****JUDGMENT**

1. Brief facts of the case are that the Opposite Party No. 1 is a Mobile App Developer Company. In the last quarter of the year 2014, the Opposite Parties met with the Complainant and represented themselves as pioneer and expert in the field of development and management of mobile apps. Thereafter, Master Agreement dated 03.12.2024 (*hereinafter referred to as Agreement*) was executed between the Complainant and the Opposite Party No. 1 for creation of mobile apps for the Complainant in the name of "Connctt", "Bakkrr", "Tikkrr" and "Snakkoo."

2. It is the case of Complainant that repeatedly assurances were given by the Opposite Parties that they would deliver the finalized version of apps within the time limit so that he could launch the apps as per his parameters, promises and confirmation. Thus, the Complainant paid the substantial amount of Rs.18,60,000/- to the Opposite Parties by cheque by the end of January, 2015. The contractual obligation was divided into seven time bound milestones, which were never  
*Allowed*

completed by Opposite Parties, thereby causing huge losses to the Complainant. The Opposite Parties did not deliver even a single project in time despite receiving all the payments well in advance from the Complainant. Moreover, the time was essence of the agreement. Since, the Complainant had pre-scheduled the soft launch of apps, engagement of vendors, registration, etc., and deadline for completion of work was coming ahead, the Complainant and his colleagues, time and again, reminded the Opposite Parties telephonically and e-mails to complete the assignment, but of no avail. In the month of January, 2015, the Opposite Parties completely shutdown communication with the Complainant and did not respond to his queries, calls and e-mails. Thereafter, as a last resort and under frustration and desperation, the Complainant gave the assignment/job of apps development to other company and the mandate given by to the Opposite Parties was withdrawn by the Complainant vide e-mail. Thereafter, the Opposite Parties sent shocking e-mail to the Complainant and falsely claimed that they were withdrawing from the projects/assignments of the Complainant. The same was done by the Opposite Parties in a pre-planned manner and malafidely, illegally and deliberately in order to harass the Complainant and to misappropriate his hard-earned money. The Opposite Parties also tried to blackmail and extort further money from the

Complainant and bogus and shame assignments were falsely shown by the Opposite Parties to the Complainant. The whole assignment was ruined by the Opposite Parties and the dreams of the Complainant, to develop his own venture by way of self-employment, was completely shattered.

3. It is the further case of Complainant that the Opposite Parties never had experts, professionals and infrastructure to execute the assignment given to them and they lured, trapped and cheated the Complainant due to which he suffered harassment, trauma and stress which cannot be compensated in terms of money.

4. The Complainant also made a police complaint against the Opposite Parties and also sent a legal notice dated 07.05.2015 to the Opposite Parties, which was duly served upon the Opposite Parties, who sent a false and frivolous reply to the legal notice.

5. Aggrieved by the aforesaid conduct of the Opposite Parties, the Complainant filed the complaint, alleging deficiency in service and unfair trade practice on the part of the Opposite Parties and prayed for refund of his amount of Rs.18,62,699/- along with interest @ 18% p.a. and a sum of Rs.15,00,000/- towards compensation and also prayed for the award of litigation expenses.

6. **Notice of the complaint was issued to the Opposite Party No. 1 only, vide order dated 03.12.2015 by Ld Predecessors and the Opposite Party No. 2 to 6 were deleted from array of parties.**

7. The Opposite Party No. 1 filed the written statement, wherein it was submitted that the complaint is liable to be rejected summarily as the Complainant has concealed material facts and did not disclose the true facts. The Commission does not have pecuniary jurisdiction at all, as the amount in dispute is stated to be Rs 16,80,032/- by the complaint, but the actual amount under dispute is only Rs 2,25,000/- and the Complainant is required to pay a sum of Rs 2,25,000/- to opposite party no. 1 along with 18% interest. The complainant entered into an agreement with the opposite party no. 1 only, as opposite party no. 2 to 6 are the employees and officials of the opposite party no. 1. Therefore, the complaint is liable to be dismissed for mis-joinder of the parties. The complainant had entered into three agreements with the opposite party for three different projects but he had mentioned only one agreement in his complaint. On merits the opposite party no. 1 has denied the allegations levelled by the complainant by stating that payments of Rs.16,80,032/- were made to opposite party no. 1 by the complainant (as mentioned in the para 7 of the written statement) but those payments were not given by him against any assurance of future work, but these payments were made by the

complainant against the scheduled delivery of various milestones. The complainant has been defaulting in making payment and kept on changing the specifications at each meeting with the opposite party no. 1, which caused a lot of re-work and extra work at the end of opposite party 1 and its team, which was not previously accounted for. The complainant was happy and satisfied with the work, done and executed by the opposite party no. 1. The contents of the complainant are false misleading and frivolous and highly defamatory, accusatory and offensive in nature. The complainant is extremely confused and has given contradictory statements in his complaint. The complainant never terminated his contract with the opposite party no 1. The complainant had mala-fide intention of usurping the intellectual property of opposite party no. 1 without paying for the same and harassed opposite party no 1 by sending the frivolous legal notice. The complainant has caused loss of revenue, profits, goodwill, prestige and opportunities to the opposite party no.1. The Opposite Party No. 1 has always despite the changing requirements of the complainant, delivered the milestones within revised time but the complainant defaulted in making the due payments to opposite party no. 1, which is facing extreme trauma for not having been able to pay his staff on time. There is no unfair trade practice and deficiency in service on the part of the opposite party no.1.

8. The opposite party no.1 has prayed that the complaint filed by the complainant be dismissed with heavy cost and the complainant be directed to make the payment of Rs 2,25,000/- to Opposite party no. 1, towards the outstanding dues along with 18% interest.
9. The Complainant filed rejoinder to the written statement of Opposite Party No. 1, wherein he denied the allegations of Opposite Party and recapitulated the facts, narrated by him in his complaint.
10. The Complainant has filed evidence by way of his affidavit.
11. **However, the Opposite Party No. 1 did not file the evidence despite several opportunities. Hence, the right of the Opposite Party No. 1 to file the evidence was closed by Ld Predecessor vide order dated 02.07.2018.**
12. The Complainant has filed the written arguments.
13. **However, the Opposite Party No. 1 did not file the written arguments despite several opportunities. Hence, the right of the Opposite Party No. 1 to file the written arguments was also closed vide order dated 21.10.2024.**

14. I have heard arguments from Ld counsel for Complainant and also gone through the material on record.

15. **Since, the Opposite Party No. 1 has failed to file the evidence by way of affidavit, the averments made by the Opposite Party No. 1 in the written statement cannot be considered in the present case.**

16. **Thus, the only question for consideration is whether there is deficiency in service on the part of Opposite Party No. 1.**

17. The word 'deficiency in service' has been defined in Section 2(1)(g) of Consumer Protection Act, 1986, which is reproduced here for ready reference:-

*"(g) "deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service."*

18. It is worth noting that the complainant has deposed in his affidavit of evidence that the opposite parties met him in the last quarter of the year 2014 and represented themselves as pioneer and experts in the field of development and management of mobile apps etc. Thus, being lured by the false promises, an agreement dated 03.12.2014 **Exhibit CW-1/1(Colly)** was entered into between him and opposite party no. 1 by which



the opposite party no. 1 gave assurance that it would make the complete finalized version of all apps and would deliver the same to the complainant within time limit. The complainant has further deposed that on believing the assurance of the opposite party no. 1, he paid the hefty amount of Rs 18,60,000/- to the opposite parties by cheque till the end of January 2015. He has further deposed that the contractual obligation between him and opposite party no. 1 was divided into seven time bound milestones, which were never completed in time, which caused huge losses to him. He has further deposed that time was the essence of the agreement, as everything ahead of the deadline was prescheduled such as soft launch, engagement of vendors, registration, further agreements with corporate, development of support system, management etc and the said fact was conveyed to the opposite party by him and his colleagues, namely, Sh. Gaurav Khanna and Sh. Shubham Goel telephonically and by email also, but of no avail. The opposite party did not make any delivery of any kind at any point of time and never within the stipulated time. The milestone delivery kept on missing stipulated date and was not completed and delivered till date. The complainant has further deposed that the response of the opposite parties, since day, was very evasive and non-committal. The opposite party had completely shut down the communication with him and did not

respond to his queries, emails and calls. The copy of email is **Exhibit CW-1/2 (Colly)**. Ultimately, he gave the assignment/job to another company and withdrew the mandate given by him to the opposite party vide email **Exhibit CW-1/3 (Colly)**. But, shockingly he received an email **Exhibit CW-1/4 (Colly)** from the opposite party, which claimed that they were withdrawing the projects/assignment from the complainant. The complainant has further deposed that the opposite party has illegally harassed the complainant, mis-appropriated his money and trapped him by making false promises and took the hefty amount from him. The opposite party has failed to finalize the mandate given by the complainant, knowingly, deliberately and malafidely, so as to pressurize and blackmail the complainant.

19. He has further deposed that the whole assignment given by him to the opposite party was ruined and his dream of developing his own personal venture by way of self-employment was completely shattered. The opposite party never had experts, professionals, infrastructure and manpower to execute the assignments and trapped the complainant by taking lakhs of rupees from him. The opposite party did not deliver anything to him, despite several requests and supplied the bogus, incomplete and useless code to him, which was completely false and of no use. The opposite party has utilized the hard-earned

money of the complainant for their commercial gains and retained his money for so many months without any rhyme or reason due to which he suffered extreme trauma, agony and irreparable loss without any fault on his part. He has further deposed that whenever his colleagues visited the office of opposite parties they were faced with evasive response and the lower staff of the opposite party handled them by giving false assurance and promises. He has also lodged a police complaint **Exhibit CW-1/5** and sent legal notice **Exhibit CW-1/6**, which was replied by the opposite party vide **Exhibit CW-1/7 (Colly)**.

20. **It is worth noting that the evidence of the complainant remains unchallenged and unrebutted as the opposite party did not opt to cross examine the complainant. It is also worth noting that the opposite party also did not examine any witness in its defence despite, several opportunities. Since the allegations made by the complainant in his complaint and evidence remained unchallenged and unrebutted, the same have to be believed.**

21. Thus, after going through the unchallenged testimony of Complainant and material on record, I am of the considered view that there is deficiency in service on the part of the opposite party.

22. Accordingly, the complaint filed by the complainant is allowed.

*Allowed*

23. Consequently, I direct the Opposite Party No. 1 to refund the amount of **Rs.18,60,000/-** to the Complainant with the following arrangement:

- A. An interest @ **6% p.a.** calculated from the date of making the payment by Complainant till **18.06.2025** (being the date of the present judgment);
- B. The rate of interest payable as per the aforesaid clause **(A)** is subject to the condition that the Opposite Party No. 1 pays the entire amount on or before **18.08.2025**.
- C. Being guided by the principles as discussed above, in case the Opposite Party No. 1 fails to refund the amount as per the aforesaid clause **(A)** on or before **18.08.2025**, the entire amount is to be refunded along with an interest @ **9% p.a.** calculated from the date of payment by Complainant till the actual realization of the amount.

24. In addition to the aforesaid and taking into consideration the facts of the present case, the Opposite Party No. 1 is directed to further pay a sum of:

- A. Rs. 1,00,000/-** as cost for mental agony and harassment to the Complainant; and
- B. The litigation cost to the extent of Rs. 50,000/-.**

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

25. A copy of this judgment be provided to all the parties free of cost as mandated by the Consumer Protection Act, 1986. The judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.
26. File be consigned to record room along with a copy of this Judgment.

(BIMLA KUMARI)  
Member (Female)

**PRONOUNCED ON 18.06.2025**