

Date of filing: 23.12.2021  
Date of Disposal: 20.12.2025

**BEFORE THE KARNATAKA STATE CONSUMER DISPUTES**  
**REDRESSAL COMMISSION, BENGALURU**  
**(PRINCIPAL BENCH)**

**DATED: 20<sup>th</sup> DAY OF DECEMBER 2025**

**CORAM: HON'BLE Mr. JUSTICE T.G. SHIVASHANKARE GOWDA – PRESIDENT**

**and**

**HON'BLE Mrs. DIVYASHREE M – LADY MEMBER**

**SC/29/CC/99/2021**

**BETWEEN:**

Mainuddin  
S/o Maheboobsab Giragavi  
Aged 40 years,  
OCC: Agriculturist and Business,  
Kolhar Gram,  
Vijayapura Taluk and District. .... **Complainant/s**

**(By Sri.R.Kothwal, Advocate)**

**AND:**

The Manager,  
Proman Infrastructure Services Pvt., Ltd.,  
No.5-J, KIADB, Kumbalgodu,  
Phase-2 (On the Big Banyan Tree road)  
Bengaluru-74.....**Opposite Party/s**

**(By Sri.Pavan.M.M, Advocate)**

**ORAL ORDER****(PER: HON'BLE Mr. JUSTICE T.G. SHIVASHANKARE GOWDA, PRESIDENT)**

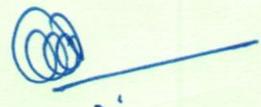
This Complaint is filed U/s.47 of Consumer Protection Act, 2019 (in short CP Act) seeking direction against Opposite Party (in short OP):

- (i) To pay a sum of Rs.3,94,20,000/- with interest at 18% p.a. as compensation or in the alternative to replace the machine in question and pay the compensation of Rs.1,94,20,000/-.
- (ii) To pay litigation cost.
- (iii) Pass such further order as this Commission deem fit and proper in the facts and circumstances of the case.

**2.** The Brief facts of the case are that: The Complainant is an agriculturist and businessman from Kolhar grama, Vijayapura district. OP is the original equipment manufacturer (OEM) of "M Sand Machine" i.e. *"Machine for making sand from stones, such sand can be used for all types of construction work, plastering etc., It is a better substitute for river sand."* The Complainant wanted to install M sand machine at one of his dry land



as he is having plenty of stone suppliers. In the meantime, agents of OP contacted the Complainant and told that they would supply/install a best machine i.e. "*M Sand machinery of Proman Remco VSI 4060 with 2 nos 300 HP motors.*" Further they convinced that said machine would produce 160 to 200 tons of M sand per hour and it would work 24 hour in a day. Believing their words, the Complainant has purchased the said machine along with other parts by paying consideration of Rs.2 crore. The agents of OP installed the said machine in his dry land on 03.07.2020. Initially the said machine produced 160 to 200 tons of sand per hour, but gradually production capacity has been reduced to 50 tons per hour. Apart from it, the machine use to work only 5 to 6 hours in a day instead of 24 hours. The Complainant has noticed the defects in the machine which are "*VSI cotarge bearing, Rotar, Feed tube, Rabal boss saftor cracked and 2 stat's tipes changed and losses.*" Said defects were repaired by the technicians of OP. The Complainant though followed the instructions, advise of OP technicians, machine did not reach the



assured production. This was informed to OP in the month of January and March 2021. While OP technicians was repairing the machine, they found that a part of machine i.e. VSI is working to the extent of 40 to 60% only. Thus, working hours reduced from 24 hours to 5 hours in a day. As OP has not supplied proper machine, the Complainant has suffered huge loss, thereby he demanded refund of the cost of the machine. Since the same was not considered, pleading deficiency in service he has filed this complaint.

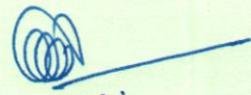
**3.** OP has opposed the complaint by filing the version. The main contention of OP is that, Complainant has purchased the M sand machine for commercial purpose not for his personal use. Hence, he is not a consumer as defined U/s.2(7) of CPA, 2019. It is his further contention that, the machine was designed to work 24/7 and it has the capacity to produce 100 to 200 tonnes of M sand per hour. The Complainant has installed the said machine in remote village where there is no proper power supply and there is frequent power fluctuations. It was found that, the machine been



tripping as and when the voltage increased. Even though the machine was repaired by trained technicians, frequent power fluctuations affected the machine's performance. The Complainant was advised to provide stable electrical supply. There is no defect in the machine. Service call was attended as and when it was received. Hence pleading no deficiency in service sought for dismissal of the complaint.

**4.** On behalf of Complainant, Complainant has filed his affidavit evidence as CW-1 and produced 12 documents which are not marked as exhibits. On behalf of OP, Assistant General Manager - Sales has filed affidavit evidence as RW-1 and marked 18 documents as Ex-R1 to R18.

**5.** There is no representation on behalf of Complainant. The Complainant is of the year 2021. Therefore, it is required to be disposed off in compliance of Sec.38(3)(c) of CPA, 2019. We have carefully perused the materials on record. We have heard the Learned Counsel for OP.



6. Now, the points that arise for our consideration are:

- (i) **Whether the Complainant is a consumer as defined U/s.2(7) of CPA 2019 ?**
- (ii) **Whether the Complainant is able to establish deficiency in service on the part of OP ?**

7. The Complainant is a resident of Kolhar grama, Vijayapura district. Since one of his land is dry land, he wanted to install M Sand Machine i.e. stone crusher which makes sand from stones. Accordingly he approached OP and after negotiation, he purchased the said machine by paying the consideration. Staff of OP visited the spot and has installed the machine. It was started working, after considerable period, performance of the machine went down for want of stable electricity supply. Thus, staff of OP informed the Complainant that power capacity is not enough for the said machine and advised to install higher capacity transformer of standard quality. But it was not implemented by the Complainant.



**Point (i):**

8. We have carefully perused para 6 of the complaint, wherein the Complainant has pleaded that "he has invested huge amount on the machine and was expecting good income, but he has suffered great loss". He expressed his loss as: cost of the machine - Rs.2 crores; loss of business profit - Rs.1 crore; electricity bill - Rs.40,000/-, salary of 14 employees - Rs.33,60,00/- etc., Such averments in the complaint clearly point out that the Complainant has installed the machine for commercial purpose. In other words, he has installed the said machine for earning profit by selling M sand. In that view of the matter, it is relevant to read Sec.2(7)(i)(ii) of CPA, 2019, which reads as:

2(7)"consumer" means any person who—

(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment, when such use is made with the approval of such person, but does not include a person who obtains such goods for



resale or for any commercial purpose; or

(ii) hires or avails of any service for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such service other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person, but does not include a person who avails of such service for any commercial purpose.

There is a proviso to the said section where meaning of the consumer is excluded if the transaction is for the commercial purpose. Hence, when the averments made in para 6 of the complaint clearly point out that, it involved commercial transactions, therefore, the Complainant does not come under the purview of the definition of consumer as defined under Sec.2(7)(i)(ii) CPA, 2019. When the Complainant is not a consumer, we cannot invoke provisions of CPA, 2019. Accordingly we answer point (i).



**Point (ii):**

9. We have carefully perused the affidavit evidence along with documents produced by both sides. Important documents are service reports. Particularly, the service report/Ex-R3 issued by OP, wherein we could see date of installation is from 19.01.2021 to 24.01.2021. Within 4 days of installation, when the Complainant said some problem arose in the machine, the staff of OP again visited the spot on 27.01.2021 and given the service report/Ex-R6 which clearly point out that there is no defect in the machine and the service engineer made remark as "*Please do not run the machine without metal detector activation. If any problem contact with Proman Service Team*". When there is such specific suggestion as to use of the machine, we do not find any defect in the machine. As such, there are no grounds to accept the contention of the Complainant that there is deficiency in service on the part of OP. Accordingly we answer point (ii).



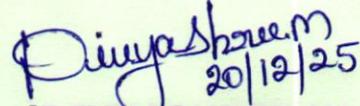
**10.** In view of our findings on point (i) & (ii), the complaint is devoid of merits. In the result, we pass the following:

**ORDERS**

- (i) **The complaint is dismissed.**
- (ii) **Supply free copy of this Order to both the parties.**



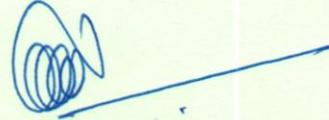
**(JUSTICE T.G.SHIVASHANKARE GOWDA)  
PRESIDENT**

  
20/12/25  
**(DIVYASHREE M)  
LADY MEMBER**

\*NS\*

<b><u>ANNEXURES</u></b>	
01.	<b><u>Witnesses examined on behalf of Complainant/s:-</u></b>
CW.1	Mainuddin, the Complainant
02.	<b><u>Documents produced on behalf of Complainant/s:-</u></b>
Doc.1	Copy of Purchase order dtd.09.03.2020
Doc.2	Copy of Invoice dtd.29.06.2020
Doc.3	Copy of Invoice dtd.30.06.2020
Doc.4	Copy of Invoice dtd.30.06.2020
Doc.5	Copy of E-way bill system dtd.03.07.2020
Doc.6	Copy of Packing list dtd.30.06.2020
Doc.7	Copy of Invoice dtd.13.06.2020
Doc.8	Copy of Service report dtd.31.03.2021
Doc.9	Copy of Service report dtd.nil
Doc.10	Original Report of Engineer of Advik Electrical Service, Belgaum, Monitory report dtd.29.04.2021
Doc.11	Copy of legal notice dtd.06.09.2021
Doc.12	Original reply notice dtd.13.10.2021
03.	<b><u>Witnesses examined on behalf of OPs</u></b>
RW-1	Amarnath.A, Assistant General Manager - Sales
04.	<b><u>Documents marked on behalf of OP</u></b>
Ex-R1	Copy of quotation dtd.09.03.2020
Ex-R2	Copy of drawings for civil works
Ex-R3	Copy of Commissioning report of VSI crusher
Ex-R4	Copy of Commissioning report of screen
Ex-R5	Copy of Operating manual
Ex-R6	Copy of service report dtd.27-28/01/2021

Ex-R7	Copy of service report dtd.13-14/02/2020
Ex-R8	Copy of service report dtd.04-06/03/2021
Ex-R9	Copy of service report dtd.09.03.2021
Ex-R10	Copy of service report dtd.19.03.2021
Ex-R11	Copy of service report dtd.31.03.2021
Ex-R12	Copy of service report dtd.22.04.2021
Ex-R13	Copy of service report dtd.26.06.2021
Ex-R14	Copy of service report dtd.25.08.2021
Ex-R15	Copy of service report dtd.24.11.2021
Ex-R16	Copy of RPAD envelope and legal notice
Ex-R17	Copy of copies of delivery challans
Ex-R18	Copy of ROC



**(JUSTICE T.G.SHIVASHANKARE GOWDA)**  
**PRESIDENT**

*Divyashree M*  
*20/12/25*

**(DIVYASHREE M)**  
**LADY MEMBER**

\*NS\*