

**IN THE DELHI STATE CONSUMER DISPUTES REDRESSAL
COMMISSION**

Date of Institution: 01.04.2024

Date of Hearing: 04.02.2026

Date of Decision: 10.03.2026

FIRST APPEAL NO-238/2024

IN THE MATTER OF

**MR. SUBHASH CHANDRA GUPTA,
B-402, MAYURDHAWAJ APARTMENTS,
PATPARGANJ, I.P. EXTENSION,
EAST DELHI, DELHI-110092.**

...Appellant in Person

VERSUS

**SAMSUNG INDIA ELECTRONICS PRIVATE LTD.,
6th FLOOR, DLF CENTRE,
SANSAD MARG, NEW DELHI-110001.**

(Through: Mr. Rajesh Rattan, Advocate)

...Respondent

CORAM:**HON'BLE JUSTICE SANGITA DHINGRA SEHGAL (PRESIDENT)****HON'BLE MS. BIMLA KUMARI, MEMBER (FEMALE)**

Present: Appellant in person appeared through VC.
None for the Respondent.

PER: HON'BLE JUSTICE SANGITA DHINGRA SEHGAL, PRESIDENT**JUDGMENT**

1. The present Appeal has been preferred under Section 41 of the Consumer Protection Act, 2019 against the impugned order dated 07.02.2024 passed by the District Consumer Disputes Redressal Commission – IX, (East-District), GNCT of Delhi, Convenient Shopping Centre, Saini Enclave, Delhi in Consumer Complaint No. 08/2024 whereby the District Commission has dismissed the complaint of the Appellant/Complainant in the following terms:

“He files the present complaint case stating that he purchased a Refrigerator from the OP on 27.04.2019 for an amount of Rs. 30,700/- including tax and this Refrigerator was working properly but 03.10.2023 he notice that the Refrigerator has developed some crack whereafter he made a complaint to the OP and some technician was sent by the OP who informed, after inspecting the Refrigerator that crack in the Refrigerator is beyond repair and he also informed the complainant that the manufacturer will pay back depreciated value on pre-tax invoice price and even one person Mr. Sher Singh telephoned him, thereby asking the ID proof, copy of purchase bill and cancelled cheque so that demand draft in favour of complainant be made which was complied with by the complainant, and on first week of November 2023 the official of OP came to their house with

demand draft of Rs.9000/- and asked the complainant to show defective Refrigerator whereafter he told that since the Refrigerator was defective and since that he already has purchased a new Refrigerator and therefore he is not having the old Refrigerator with him now and then the OP refused to give DD stating that DD cannot be given to complainant without seeing the Refrigerator, which amounts to deficiency in service and he has filed the present complaint case interalia praying that the OP be directed to compensate the complainant for selling defective Refrigerator to him. Complainant has argued the matter on his own. When the Commission enquired as to whether he has the Refrigerator in question with him, he submitted that he has already sold the said Refrigerator to some Kabadiwala & when it was enquired as to whether he can bring the Refrigerator back for the purpose of inspection of the OP, he informed that it cannot be traced-out. Law is well settled if the product against which the deficiency is being claimed has been sold out by the complainant the complainant, would be no more be covered within the definition of 'Consumer' under the Consumer Protection Act.

*In the judgment of **Tata Motors Ltd. & Anr. Vs. Hazoor Maharaj Baba Des Raj & Anr** it was interalia held:*

In the light of above observations, we find that as complainant did not remain consumer after sale of vehicle and he has sold the vehicle without permission of the District Forum and has suppressed this fact and has not approached the courts with clean hands, complaint is liable to be dismissed.

Since the Refrigerator has been sold out, the complainant therefore is no more a 'consumer' as per the Consumer Protection Act 2019 & therefore the complaint of the complainant before Consumer Commission is not maintainable. The same is dismissed.

File be consigned to record room."

2. Aggrieved by the aforesaid order of the District Commission the Appellant/Complainant has preferred the present appeal on the ground that the District Commission erred in dismissing the case of the Appellant without being properly considered it on merits and based on an incorrect assumption that the Appellant has sold the Refrigerator in question to some Kabadiwala (scrap dealer), rather the Appellant has discarded the said Refrigerator. Further, the Appellant submitted that there is a clear deficiency of service on the part of the Respondent bank. Pressing the aforesaid submissions, the Appellant prayed for setting aside the impugned order passed by the District Commission.
3. The Respondent has filed his reply, denying all the submissions of the Appellant and submitted that there is no error in the impugned order as the District Commission has rightly observed that the Appellant ceases to be consumer as the Refrigerator in question was disposed off by the Appellant before the filing of the complaint before the District Commission. Pressing the aforesaid, the counsel for the Respondent prayed for the dismissal of the present Appeal.
4. The Written Submissions has been filed by the Appellant wherein the contents of the Appeal have been reiterated and the same have been considered.
5. The Written Arguments has been filed by the Respondent wherein the contents of Reply to the Appeal have been reiterated and the same have been considered.
6. We have perused the material available on record.

7. The *main question* for consideration before us is *whether the District Commission erred in dismissing the complaint of the Appellant on the ground that the Appellant/Complainant does not fall within the definition of consumer.*
8. On perusal of the record, we find that the Appellant had purchased a Refrigerator from the Respondent on 27.04.2019 for a total consideration of Rs.30,700/-. It is the case of the Appellant that the said Refrigerator functioned properly for a considerable period; however, on 03.10.2023, the Appellant noticed that the Refrigerator had developed cracks. Thereafter, the Appellant lodged a complaint with the Respondent, pursuant to which a technician was deputed to inspect the appliance. Upon inspection, the technician allegedly informed the Appellant that the cracks in the Refrigerator were beyond repair and that the manufacturer would compensate him by paying the depreciated value calculated on the pre-tax invoice price.
9. Further, in the first week of November 2023, an official of the Respondent visited the residence of the Appellant with a demand draft of Rs. 9,000/- and asked to inspect the defective Refrigerator. However, the Appellant informed that he had already purchased a new Refrigerator and had disposed off the old defective Refrigerator.
10. The Appellant herein submitted that he has discarded the defective Refrigerator and purchased another Refrigerator. On the contrary, the Respondent before the District Commission has submitted that the Appellant has sold the old defective Refrigerator to the scrap dealer before the final inspection, due to which, the compensation could not be initiated by the Respondent.
11. Be that as it may, the fact is clear that the Appellant has disposed off the old defective Refrigerator before the final inspection and due to which the Respondent failed to initiate the compensation on the basis of depreciated value.

Further, we also noted that when the District Commission enquired from the Appellant as to whether the Refrigerator in question was still in his possession, the Appellant categorically submitted that he had already disposed of the same and that the said Refrigerator could not be traced out. In view thereof, the Refrigerator in question, forming the subject matter of the present case was admittedly not available for inspection.

12. At this juncture, it is pertinent to note that in matters where defect in a product is alleged, the availability of the product in question assumes considerable significance so as to enable verification of the alleged defect and to afford an opportunity to the Respondent to inspect the same. However, in the present case, the Appellant himself rendered such verification impossible by disposing of the Refrigerator even prior to approaching the District Commission.
13. In these circumstances, when the alleged defective product itself was not available either for inspection or for verification of the alleged defect, the District Commission could not have adjudicated the claim of the Appellant on merits. Consequently, we find no infirmity in the finding of the District Commission in dismissing the complaint.
14. In view of the forgoing, we are in agreement with the reasons given by the District Commission and fail to find any cause or reason to reverse the findings of the District Commission. Consequently, we uphold the order dated **16.11.2023** passed by the ***District Consumer Disputes Redressal Commission- IX, (East-District), GNCT of Delhi, Convenient Shopping Centre, Saini Enclave, Delhi.***
15. ***Resultantly, the present Appeal stands dismissed with no order as to costs.***
16. Application(s) pending, if any, stand disposed of in terms of the aforesaid judgment.
17. The Judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.

18. File be consigned to record room along with a copy of this Judgment.

**(JUSTICE SANGITA DHINGRA SEHGAL)
PRESIDENT**

**(BIMLA KUMARI)
MEMBER (FEMALE)**

**Pronounced On:
10.03.2026**

LR-AJ