

**DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION
SOUTH DELHI
CONSUMER COMPLAINT NO. DC/83/CC/122/2023**

SHAN MOHMMED

PRESENT ADDRESS - R/O. E-11/56, NEAR JAMA MASJID, HAUZRANI, MALVIYA NAGAR ,
NEW DELHI-110017 SOUTH,DELHI.

.....Complainant(s)

Versus

APPLE INDIA

PRESENT ADDRESS - 19TH FLOOR, CONCORDE TOWER C, UB CITY, NO.24, VITTAL
MALLYA ROAD, BANGALORE 560001, INDIASOUTH,DELHI.

.....Opposite Party(s)

BEFORE:

**MONIKA A. SRIVASTAVA , PRESIDENT
KIRAN KAUSHAL , MEMBER**

FOR THE COMPLAINANT:

NONE

FOR THE OPPOSITE PARTY:

NONE

DATED: 26/02/2026

ORDER

DISTRICT CONSUMER DISPUTES REDRESSAL FORUM-II

Udyog Sadan, C-22 & 23, Qutub Institutional Area

(Behind Qutub Hotel), New Delhi- 110016

Case No.122/2023

Shan Mohmmed

S/o Late Shri Bhoore Khan

R/o E-11/56 Near Jama Masjid

Hauzrani, Malviya Nagar

New Delhi-110017.

....Complainant

VERSUS

Apple India

19th Floor, Concorde Tower-C

UB City, No.24, Vittal Mallya Road

Bangalore-560001.

....Opposite Party

Coram:

Ms. Monika A Srivastava, President

Ms. Kiran Kaushal, Member

**Present: Adv. Aneesh Ahmed and Adv. Md. Miskeen along with complainant.
Adv. Anchal Pundir for OP.**

ORDER

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Date of Institution:21.04.2023
Date of Order :26.02.2026

President: Ms. Monika A Srivastava

Complainant has filed the present complaint seeking directions to OP to refund the amount of I-phone along with compensation of Rs.5,00,000/- and Rs.35,000/- as cost of litigation.

1. It is stated by the complainant that the complainant has been using I-phone since 2015 and trusted OP's phone blindly because at the time of switching the power off a message is displayed "*I-phone findable after power off*". It is stated that this feature makes the user comfortable in case of event of loss or theft.
2. It is stated that the complainant upgraded his previous I-phone 11-Pro to I-phone-13 (white) purchased on 10.02.2022 for a sum of Rs.70,500/-. Copy of the invoice is annexure-B. It is further stated that the complainant is proprietor of Weather Cool Services having approximately 500 clients and other important documents on the phone.

3. It is stated that on 02.09.2022 his I-phone along with other phones were stolen from his residence and in this regard FIR was lodged No.000990/2022 u/S 380 IPC Malviya Nagar. Copy of the FIR is annexure-C.
4. It is stated that complainant was very sure that he can trace out his phone as per the promise of the OP "*I-phone findable after power off*" but surprisingly the efforts of the complainant to trace out his mobile phone went in vain. Complainant then contacted customer care on the toll free number who denied help and asked the complainant to reach out the authorized company outlet. Complainant contacted the company outlet where also he was denied any help. Complainant visited official website of OP *www.apple.com&www.icloud.com* and followed the instructions given on the website but was unable to find the device.
5. It is stated by the complainant that he has done everything to recover his mobile phone but all went in vain because of which the complainant has suffered trauma, unnecessary harassment and agony due to unfair trade practice and deficiency in service on the part of the OP. In this regard, complainant sent a legal notice dated 16.01.2023 which is annexure-D.
6. In their reply, OP have stated that the complaint has been filed with a malafide intention seeking undue benefits from OP. It is stated that there is no legal or factual merit. It is stated that there is no obligation whatsoever either under any contract i.e. warranty terms and conditions offered by the OP to the consumer or under any subsisting law requiring the OP to trace the stolen mobile phone of the complainant. It is stated that OP is neither responsible for losing the subject phone nor responsible for finding it and therefore there is no cause of action against OP.
7. It is stated that OP has provided its warranty terms publicly by uploading the same on its website which clearly excludes from its ambit cases of theft "*if Apple receives information from relevant public authorities or registries that the product has been stolen*". It is stated that complainant was clearly aware that OP's Apple warranty does not apply on any I-phone product which has been stolen. Copy of the Apple warranty is annexure-2.
8. It is stated that a representative of the Customer Care Support (CCS) team of the OP had approached the complainant's counsel vide telephone and informed that though '*Find my*' had not been enabled prior to 23.01.2023, however on 24.01.2023 it was active. Complainant was further informed vide email dated 24.01.2023 that the feature "*I-phone findable after power off*" can only work when the "*Find my*" feature has been enabled on the device. Complainant was requested to track the same and confirm it to the representative. Reminder email dated 27.01.2023 was also sent to the complainant however no response was received from the complainant. Thereafter, vide another email of the same date complainant was informed that "*I-phone findable after power off*" relies on the device being associated with '*find my phone*' on the account. It is stated that requisite support was provided to the complainant. Copies of emails dated 24.01.2023 and 27.01.2023 are annexure-3 (colly).
9. It is stated that the complaint has been filed on the completely baseless and unsubstantiated averment that the OP is indulging in deficiency of service. It is stated that complainant has failed to substantiate any act of negligence or omission or commission by the OP which has caused any loss to the complainant or any deliberate withholding of relevant information. It is stated that the law does not cast any duty on the OP to trace a stolen mobile phone and that the OP, as a responsible seller offered its assistance by providing necessary information

and technical support to the complainant. OP has placed reliance on the judgment passed by the Hon'ble Supreme Court in *SGS India Limited vs Dolphin International AIR 2021 SC 4849*. It is stated that onus of proving deficiency of service against OP is on the complainant and the complainant has made bald allegations against the OP without any proof hence OP cannot be held liable for deficiency in service.

10. OP has also placed reliance on the judgment passed by Hon'ble Supreme Court in *Ludhiana Improvement Trust, Ludhiana &Anr. Vs. Shakti Cooperative Housing Building Society Ltd. (2009) 12 SCC 369, Ravneet Singh Bagga vs KLM Royal Dutch Airlines (2000) 1 SCC 66, Uttam Kumar Samanta vs Vodafone East Ltd. 2018 (4) CPR 413*.
11. It is stated that the feature noted by the complainant '*I-phone findable after power off*' relies on the device being associated with '*Find my*' on the account. It is subject to the '*Find my*' feature being enabled/switched on by the user on the said mobile phone and it being within cellular/wi-fi network. It is stated that Apple product does not process and give users control over their information and that '*Find my*' network uses end to end encryption so that Apple cannot see the location of offline device or reporting device. As a result, it is only the user who can access the location of his or her device through the '*Find my*' feature including but not limited to any misplaced/lost mobile phone subject to satisfaction of the above stated conditions and enabling the '*Find my*' feature. Copy of the '*Find my*' and privacy policy is available at <https://.apple.com/legal/privacy/data/en/find-my/>. It is further stated that complainant has already filed e-FIR and therefore the obligation to trace the stolen mobile phone lies with the law enforcement agencies. It is stated that it is not the responsibility of entities like OP to trace stolen mobile phones.
12. In his rejoinder, complainant has denied the averments made in the reply. It is stated that the OP is misleading the court by making false averments. It is stated that nowhere it has been mentioned that before switching off the power "*I-phone findable after power off*" feature can only work if the "*Find my*" feature has been enabled on the device. It is stated that the function was enabled in the phone after the incident but yet it could not be traced. It is stated that the feature "*I-phone findable after power off*" shows then the phone is going to be switched off by the user and further the display does not show any hidden messages such as *conditions apply* and therefore it is presumed that the user would believe on the display message. It is stated that complainant has spent his hard earned money on such premium phone in the hope of protection in such an untoward incident.
13. Both the parties have filed their evidence affidavits and written arguments. This Commission has gone through the entire material on record.
14. OP has cited the judgment of SC in *Apple India Pvt. Ltd. Vs. Harish Chandra Mohanty SLP (C) 18343/2021, S.P. Chengalvaraya Naidu Vs. Jagannath (1994) 1 SCC 1, Wheels India Vs. Nirmal Singh 2010 SCC Online Del. 2852, SGS India Limited vs Dolphin International AIR 2021 SC 4849, Ravneet Singh Bagga vs KLM Royal Dutch Airlines, Ludhiana Improvement*

15. It is observed that this feature of I-phone i.e displayed "*I-phone findable after power off*" informs the users that I-phone is findable even after being switched off however, it is noticed there is no *asterisk (*)* or any *conditions apply* attached to this statement made by OP which would inform the user that something more is required to be done for this feature to be active. The user would take the statement to be true and a complete statement as there is no pre-condition attached to it.

At the time of arguments, counsel for OP had shown the Commission if the said message is clicked then the pre-condition of "*Find my*" feature of the I-phone to be active is seen and then only this feature would be activated.

As observed above, there is no asterisk or any direction/guidance from the OP that the feature of '*I-phone findable after being switched off*' can only be activated when the pre-condition of '*Find my*' is first fulfilled.

The judgments relied on by the OP pertain to cases where Apple was saddled with the task of finding the lost I-Phone and therefore are not applicable to the present case. The present case deals with the feature of "*I-phone findable after power off*".

Therefore, this Commission finds OP to be guilty of deficiency in its services in not providing the users complete information regarding the said feature by informing/prompting them to click on the said feature and thereby making them believe that the information/statement "*I-phone findable after power off*" is complete. OP is therefore directed to pay a sum of Rs.1,00,000/- to the complainant.

Copy of this order be given to the parties as per rules. File be consigned to record room. Order be uploaded on the website.

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MONIKA A. SRIVASTAVA
PRESIDENT

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KIRAN KAUSHAL

