

IN THE COURT OF MR. MALIK PEER MUHAMMAD.
DISTRICT & SESSIONS JUDGE /PRESIDING OFFICER, DISTRICT
CONSUMER COURT,
SIALKOT/NAROWAL.

Case No. 98 /2008

Date of Institution: 27-09-2008.

Date of Decision: 21-10-2009.

Ghulam Abbass Farooqi S/O Muhammad Munir Farooqi,
Rajpoot Bhatti by caste, R/O Mauza Matt-e-kay, tehsil
Pasrur, District Sialkot.

(Consumer/subscriber/Complainant)

Versus

M/S Naeem Electronics (Hamza Ghaus) Pasrur Road
Nearby Pul-Aik, tehsil Sialkot, through its
proprietor/Manager Naveed Ahmad.

(Service Provider/Respondent)

ORDER:

The briefly stated facts of the case in hand are that the complainant has brought instant complaint against respondent M/S Naeem Electronics, that he purchased a *SONY* television bearing model No. SZ29M88 against a consideration of Rs. 29,250/-. (Rupees Twenty Nine Thousands Two Hundred and Fifty only). It is further averred in the complaint that he purchased the said television on 21-11-2007, on installment basis. A-part from this it is further averred in the complaint that respondent gave incentive and preached to the
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complainant to enter into this transaction. Complainant being innocent convinced by the colorful and baits preachment and decided to purchase the television. Respondent offered his 16% discount to the

complainant at the time of last and final payment. Complainant paid all eleven installments to the respondent, prior to the maturity of installments.

After payment of full-fledge amount, respondent as per mutual consent/agreement/advertisement did not fulfill his promise neither gave him the discount amount nor delivered original documents of the television, hence, the respondent be punished for bait advertisement, his license be cancelled, he be directed to return the discount amount and other relief.

Predecessor of this court issued notice to the respondent as for to contest and to defend this complaint. Respondent put-up his appearance before this court through learned counsels Mr. Arshad Baggu, Mr. Shoib Azam, Mr. Bilal Akbar Ghuman, Shehzad Butt and Mr. Rashid Mehmood Ghuman. Respondent filed his written reply and refused all the allegations levelled against him in the caption complaint. It is requested in the written reply that complaint required to be dismissed alongwith fine, which required to be awarded to the
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respondent.

This court after complete perusal of the pleadings, called evidence of both the parties and directed them to furnish their respective affidavits, which may show their examination in chief.

Complainant (Ghulam Abbas Farooqi) appeared as A.W.1, Akbar Ali as A.W.2, alongwith this verbal evidence he produced copy

of the receipt Ex-A.W.1/B, C, D, E, F, G, H, J, K, L and M, installment card Ex-A.W.1/N and closed his documentary evidence.

On the other hand Naeem Afzal appeared as R.W.1 and on the same day, Rashid Mehmood Ghumman Adv. got recorded his separate statement and closed the respondent evidence.

After complete evidence of both the parties, the complaint was fixed for final arguments on 12-12-2008. Thereafter, the predecessor of this court sent a reference to the Hon,'ble Registrar, Lahore High Court, Lahore for the withdrawal of instant complaint and to entrust the same to some other court of competent jurisdiction for its adjudication.

Meanwhile, the predecessor of this court transferred to the Central Court, Faisalabad, hence, the Hon,'ble Lahore High Court, Lahore, vide letter No. 7533 Job(I)/IX.C.II, (Conti.....4)

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dated 09-04-09 allowed to the undersigned for to finally adjudicate this complaint.

This complaint was put-up before me to decide it finally but respondent did not turned-up in the court. In the interest of justice, vide order dated 11-09-2009, a follow-up notice was issued to the respondent side to defend this complaint as for to decide it on merit.

The process server of this court went upon the given address and handed over the follow-up notice to Sheraz Ahmed, one responsible official of the respondent. At the time of receipt of follow-up notice the said Sheraz Ahmed affixed the seal of the office alongwith his signature. After the service of respondent he did not

turned-up in the court. He was proceeded against ex-parte on 06-10-2009.

Ex-parte arguments heard. I have gone through the record explored into the evidence, tendered by both the parties.

The first question before the court is that whether complainant is a consumer and falls within the jurisdiction of court ?

To answer this question I have gone through the contents of the complaint and written reply submitted by (Conti.....5)

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the respondent. No doubt respondent has not disputed the jurisdiction of this court at any stage and accepted that he sold the disputed television to the complainant but denied the other allegations of the complaint against him through the admission of the respondent, inference can easily be drawn that complainant is a consumer and this court has the legal jurisdiction to entertain this complaint.

The pivotal question before this court for to resolve is that if respondent was agreed for the payment of discount amount at the time of final payment of the total amount and if he preached bait advertisement and alluring banners for to invite the complainant to sale his television.

I have hectically gone through the record, read in between the lines of the evidence.

The complainant put-up his appearance before the court as A.W. he deposed that he purchased the disputed television from the respondent and paid the entire amount in eleven installments but

respondent twisted his promise and failed to pay the discount amount, as previously mutually agreed by the parties on the basis of advertisement. This A.W met with the lengthy cross-examination. Except few lapses he (Conti.....6)

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remained firm in the cross-examination and successfully repulsed all the suggestions put by learned counsel for the respondent. This A.W produced the receipt before the court through Ex-P.A to Ex-P.M alongwith original installment card which is A.W.N. In the said card which is not denied by the respondent. It is specifically signified in Urdu,”

The above said allure bait advertisement of the respondent throw light upon his conduct. Furthermore, I have gone through the receipts Ex-A.W.1/M, which indicates that total price of the television was fixed Rs. 29,250/- Ex-A.W.1/M, Ex-A.W.1/L indicates that installment amount Rs. 2250/- was paid to respondent and this receipt itself indicates that after closure of the account respondent will pay 12% discount, (Conti.....7)

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similar words are repeated in Ex-A.W.1/K, J, H and G. Furthermore Ex-A.W.1/F indicates that they will refund 16% discount after closure of the account and balance amount. These receipts are not specifically denied by the respondent in his written reply, as well as in his statement, however, he admitted the original “form,, that it is drafted under his hand. Furthermore he accepted the suggestion of learned counsel for the complainant that in said receipt issued by his own hands sometime he promised that he will give 16% discount and sometime he mention in his receipt to return 12% discount at the time of final payment.

A receipt, Ex-A.W.1/C produced to the respondent for its examination but he refused to accept that 16% discount is mention in it. The boldness and the dearness made astonished to me when I personally resorted to the said Ex-A.W.1/C, wherein, it is specifically mention that after closure of the account he will pay 16% discount to the consumers/customers.

After having detail anxious eye upon the averments of the complainant, reply and exploring through the evidence of the parties, I have come to the conclusion that **(Conti.....8)**

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respondent in order to promote the business and in order to attract more and more customers used misleading and deceptive means.

Furthermore it is brought in the notice of the court through the relevant documents proved by the complainant, respondent advertise a specific concession of discount but he did not obey the said discount as he earlier advertised and promised to the complainant. He played false, deceptive and misleading representation to the complainant, hence, I hold the respondent guilty to violate the legal terms and conditions imposed upon him through “The Punjab Consumer Protection Act 2005”. As such respondent is, hereby, directed to refund 16% discount amount on the original sale price of the television, as per his advertisement at the time of this transaction. Furthermore he is directed to deliver the original documents of the television. He is further directed to restrain the bait advertisement in future and to remove all kind of such banners, brushers, signboards, print media, electronic media or any other material for such bait advertisement. Authority, (DCO), is directed to preclude to the respondent and forbid him for false advertisement and remove all such material like banners etc from the market immediately and positively, under intimation to this court. In case the directions of this court are not complied, (Conti.....9)

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complainant will be at liberty to apply this court to comply the order through the voice of mandatory provisions under the Punjab Consumer Protection Act, 2005. A copy of this order be sent to the authority (DCO), Sialkot for positive compliance. File be consigned to the record room after its due compilation.

Announced:

Presiding Officer,

21-10-2009.

District Consumer Court
Sialkot/Narowal.

CERTIFICATE

Certified that this order contains nine pages and each of page is dictated, corrected and signed by me.

Announced:
21-10-2009.

Presiding Officer,
District Consumer Court
Sialkot/Narowal.