

22.10.2012

Present: Claimant with Mr. Shahid Mahmood Langrial Advocate.
Defendant Ex-parte

1. Mst. Shair Bano/claimant by filing this claim under section 25 of the Punjab Consumer Protection Act, 2005 (hereinafter to be called the Act) has maintained that a vehicle Suzuki VXR, Engine No. 216957, Chassis No. 521003 of white colour was purchased by her husband Muhammad Riaz from one Mr. Kamran Saleem; said Kamran had bought this cab on lease facilitated by Citi Bank/defendant; claimant thereafter paid all installments against vehicle in question; after clearance of all dues when claimant requested defendant for issuance of No Objection Certificate against vehicle, it was prolonged by one pretext or the other; instead of issuing NOC defendant's officials started to harass, humiliate, pressurize and blackmail to claimant on the reason that some other amount is due against Mr. Kamran Saleem for use of credit card; claimant is bonafide owner of car by making payment of all installments and dues hence defendant is bound to issue NOC in this context; claimant served a legal notice to defendant but of no avail.

02. In prayer clause claimant had set up his claim as under: -

- i.** For issuance of NOC by defendant.
 - ii.** Payment of damages of Rs. 50,000/- on account of faulty services.
 - iii.** Payment of Rs. 20,000/- i.e. legal service charges of advocate.
- Total.** Rs. 70,000/-

03. Defendant was summoned through TCS and process-server of this Court. Service was effected in both ways but defendant did not appear hence it was proceeded ex-parte on 15.10.2012. Thereafter ex-parte arguments to some extent were heard and on the last date of hearing I had directed production of record of bank with regard of vehicle in question. Notice was issued in this context. Service was effected but even today there is clear violation for making compliance of order of this Court by the bank.

04. I have heard arguments of learned counsel for claimant. Vehicle was stated to be in the name of Kamran Saleem. Claimant's case is not on the basis of user for purchase of product or beneficiary of services as provided by section 2 (C) of the Act, rather she has claimed to be owner on the basis of an agreement with Kaman Saleem. When I examined this

agreement/Iqrarnama photocopy of which is available on record, I find that this agreement of purchase of car is in favour of husband of claimant and that too not by Kamran Saleem, but by one Saqib Khursheed who is some other person having no concern with vehicle at all. In these circumstances claimant cannot say that she is an owner of car hence she will not fall within the definition of Consumer in view of section 2 (C) of the Act.

05. I am astonished to see a copy of letter of authority which is by Kamran Saleem in favour of Muhammad Riaz husband of claimant. Through this document Kamran Saleem had allowed only to drive his car to Muhammad Riaz. It is surprising that this document is dated 19.11.2007, whereas earlier referred document/agreement is dated 01.02.2007. If through agreement dated 01.02.2007 husband of claimant had become owner of car then how in November 2007 Kamran Saleem could claim his ownership and to authorize Muhammad Riaz only to drive the car. In view thereof I am satisfied that there appears some conspiracy among claimant, her husband and Kamran Saleem, and an attempt has been made to mislead the Court.

06. Section 35 of the Act empowers this Court to dismiss a claim which is found frivolous or vexatious by imposing the fine on claimant. To my mind this is a fit case for exercising the powers and when I confronted claimant with this provision, she started to weep. Her husband is present in Court who is stated to be a patient of asthma. Both also appear to be dead illiterate. I therefore, refrain to impose any fine on claimant.

07. For the foregoing reasons this claim is dismissed being frivolous with strict warning to claimant to be careful in future. File shall be consigned to the record room after its due completion.

Announced
22.10.2012

(SOHAIL NASIR)
District & Sessions Judge/
Judge Consumer Court,
Rawalpindi.