

**ACTION CROSS WELFARE SOCIETY V/S LAHORE CENTRE ETC.**

**Order:**

The petitioner Society has filed a claim under Section 25 of Punjab Consumer Protection Act 2005 for recovery of damages amounting to Rs. 101900/- against the Respondents.

2 Brief facts according to the Petition are that the petitioner purchased an A.C. Split Unit (1.5 Ton) from Respondent No. 1 for an amount of Rs. 23800/- on 09-06-2007 of Haier Company i.e Respondent No. 2 and 3. The Petitioner had alleged that when he called a private technician to install the same in his office, it was found that some parts of the A.C. Split Unit were damaged and the A.C. Split Unit could not be installed. On 11-06-2007 at about 11:00 A.M, the Complainant went to the shop of Respondent No.1 and asked to replace the damaged piece. The Respondent initially refused to accept his responsibility but later on he was ready to replace the damaged piece and also refused to compensate the petitioner. The petitioner has prayed that he be granted damages along with costs amounting to Rs. 101900/-.

3 The Respondents were summoned who contested the petition through their written replies, and took a number of preliminary objections including Cause of Action. The evidence of both the parties was recorded. The petitioner society produced PW1 Misbah-ul-Haq Secretary of the Society and the Respondent Produced RW1 Kazim Khan and RW2 Salim Shahzad and closed their evidence.

4 It is contended by the Learned Counsel for the Petitioner that the petitioner has suffered mental and physical agony in the hot weather in the month of June due to the fault of the respondents as they had provided a damaged piece of A.C Split Unit. He has further contended that he has paid Rs. 1900/- to a private installer, electrician and pick up charges and the respondent did not remove the defective piece of A.C Split Unit from his premises for about two months and he is entitled to the damages as prayed for.

5 On the other hand the Counsel for the Respondents had contended that the petitioner has purchased the A.C Split Unit on 09-06-2007 in the evening and tried to get it installed at his own risk from some private installer who damaged the A.C Split Unit as 10-06-2007 was Sunday and the shop of the respondent was closed. The petitioner approached Respondent No.1 at about 11:00 A.M on 11-06-2007 and A.C. Split Indoor Unit was replaced

immediately through the installer of Respondent No.1. The petitioner has not specifically disclosed the same in his petition and has concealed the true facts from the Court and had not approached the Court with clean hands. As the Indoor A.C. Split Unit was replaced immediately and the suit has been filed by the petitioner after about 2 months therefore, he has no Cause of Action and the suit be dismissed on this sole ground.

6           After hearing the arguments of both the Learned counsel for the parties and perusing the record. It is evident from the evidence given by the petitioner's witness i.e PW1 Misbah-ul-Haq, that the A.C. Split Indoor Unit which was allegedly damaged was replaced by Respondent No.1 immediately i.e within 15 hours. As the A.C. Split Unit was purchased by the petitioner on 09-06-2007 at about 8:00 P.M and 10-06-2007 was Sunday and the shop of the respondent was closed. Therefore the same was replaced on 11-06-2007 by the respondents and was also got installed by them through their installers and the cause of action came to an end. Therefore the petitioner is not entitled to any damages or compensation.

In view of the aforesaid reasons, this petition is dismissed with costs.

File be consigned to record room after due completion.

**Announced  
26-09-2007**

**Presiding Officer/  
District & Sessions Judge  
District Consumer Court  
Lahore**