

In the Court of Maqsood Ahmed Sulehri, District & Sessions Judge /
Presiding Officer, District Consumer Court, Multan

**Mujahid Bashir S/o Haji Bashir Ahmed Sakna Bashir Flour Mill Setal Mari Budhla
Road Multan.**

(Claimant)

Versus

- 1. Waves Cool Industry (Pvt.) Hinjerwal Lahore through General Manager.**
- 2. Waves Service Centre Multan through Manger near Multan Petrol Pump
Khanewal Road Multan.**
- 3. New Mashah Allah Electronics, Hussain Agahi Multan through Proprietor.**

(Defendants)

Case No. 75/2009
Date of Institution 20.6.2009.
Date of decision 09.9.2009

ORDER:

Brief facts of the case as contained in the complaint are that complainant received a Waves Air Conditioner as dowry article at the time of marriage on 04.7.2008 which was installed at the end of the summer season but was found that AC in question was not giving proper cooling. Again in the recent summer season AC was started, some days afterwards its grill became out of order and its cooling was also low. The complainant contacted the defendant in this regard but they refused to rectify the fault. Legal notice was issued to the defendant. It has been prayed in the complaint that an amount of Rs. 2 lac as compensation be awarded to the complainant.

2 Written statement was submitted on behalf of defendant No. 3 on 18.7.2009.

3 Complainant produced evidence in support of his case as under:

PW1 Mujahid Bashir being complainant of this case appeared on 02.9.2009 and made statement on oath that Waves split AC in question was given to him as dowry article at the time of his marriage on 04.7.2008 which was installed a few days afterwards but was found that its grill was not moving and its cooling was also not proper. He stated further that he raised complaint at the service centre of the defendant who failed to rectify the defect despite promised. He added that AC was again started in the recent summer season but same defect was found. At which he (complainant) again contacted the defendant who sent his technician 2/3 times. The grill was replaced but there was no improvement in its cooling, at which the technician of the defendant promised that the product would be replaced and then they kept on promising and lingering on the matter but failed to replace the product.

4 Argument of the complainant's counsel is that complainant has proved his case with cogent evidence and hence is entitled compensation prayed for.

5 Arguments so addressed have been considered, record has been perused which reveals that the precise contention of the complainant as contained in the complaint is that he obtained Waves AC as dowry article at the time of his marriage on 04.7.2008 and the at the end of the summer season he installed it and found that its cooling was not proper. In evidence complainant states as PW1 that the said AC was given to him as dowry article at the time of his marriage on 04.7.2009 and same was installed a few days afterwards. At which he found that its grill was not moving and its cooling was also not proper, means that the cause of action arose initially a few days after 04.7.2009 i.e. much after the expiry of the limitation period. It is pertinent to mention here that limitation period for such claims is basically 30 days. No doubt it can be extended by the court if satisfied that complaint could not be filed within the prescribed period due to some sufficient cause but no such sufficient cause has been shown in the complaint

or in the evidence. So much so no such effort for seeking extension has been made by the complainant during entire proceedings, as such question of extension of limitation period in the circumstances of this case does not arise. Relevant provisions of Section 28(4) are reproduced as under:

Sec. 28(4):-

“A claim by the consumer or the Authority shall be filed within thirty days of the arising of the cause of action:

Provided that Consumer Court, having jurisdiction to hear the claim, may allow a claim to be filed after thirty days within such time as it may allow if it is satisfied that there was sufficient cause for not filing the complaint within the specified period;

Provided further that such extension shall not be allowed beyond a period of sixty days from the expiry of the warranty or guarantee period specified by the manufacturer or service provider and if no period is specified one year from the date of purchase of the products or providing of services.”

6 From these provisions is manifest that the complaint is hopelessly time barred. Even otherwise legal notice EXP1 has not been produced in evidence in a proper manner because scribe of the notice so alleged has not been produced in the court in order to prove the notice. In these circumstances it is manifest that mandatory provisions of Section 28 (1), (3) have not been complied with. In such circumstances complaint cannot be entertained. Relevant provisions of Section 28(1), (3) are reproduced as under:

Sec. 28(1):- ***“A consumer who has suffered damage, or Authority in other cases, shall, by written notice, call upon a manufacturer or provider of services that a product or service is defective or faulty, or the conduct of the manufacturer or service provider is in contravention of the provisions of this Act and he should remedy the defects or give damages where the consumer has***

