

IN THE COURT OF Mr. ABDUL HAFEEZ,
DISTRICT & SESSIONS JUDGE /PRESIDING OFFICER,
DISTRICT CONSUMER COURT,
SIALKOT/NAROWAL

APPLICATION FOR DISMISSAL OF THE COMPLAINT DUE TO LACK OF
JOURISDACTION ON BEHALF OF THE RESPONDENT NO.1 &2

Present:- Complainant alongwith counsel.

Muhammad Sarvet Tufail respondent No.1 in person and on behalf of respondent No.2 alongwith counsel.

Nisar Ahmed representative of respondent No.3 alongwith counsel.

ORDER

1. In the above said application it is stated by the applicant, that complaint is pending adjudication in this court, complaint is not maintainable, this court has no jurisdictions to maintain the complaint. According to law, first of all, matter regarding dispute of jurisdiction be decided. In the written reply, said point was raised. In the complaint it is specifically mentioned that complainant is doing the business of sales and purchase of the agricultural products in the name and style Waseem Traders and he is also broker. In the legal notice, it is also mentioned that he sold fertilizer to the consumers, under the law, the person who resales the product does not fall in the definition of the consumer. Complaint is not proceedable, this court has no jurisdiction to entertain the complaint, application may be accepted, complaint may be dismissed with costs.

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2. Conversely complainant (respondent herein) filed the written reply that this court has the jurisdiction to entertain and try this complaint, complaint is maintainable, complainant is indulged in the business of agricultural products. Complainant is consumer, application may be dismissed. Respondent No. 3 filed the written reply and conceded the contents of the application.

3. Learned counsel for the applicant/ respondent No.1+2 contended that this court has no jurisdiction to entertain and adjudicate the complaint. He further contended that in the legal notice delivered by the complainant to the respondents, complainant has stated that complainant is running the business in the name and style of Waseem Traders. He purchased 150/- bags of fertilizer in consideration of Rs. 1,62,000/- and thereafter he sold fertilizer to the consumers. The purchasers made the complaint that fertilizer is bogus and defective, he demanded return of amount from the respondents. He also got laboratory test of the fertilizer and allegedly came to know that fertilizer is bogus and defective at this he returned the amount to said purchasers. The said admission of the

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complainant, in his legal notice delivered to the respondents is sufficient to prove that he is not consumer and is dealer he is indulged in the business of selling the fertilizer to the peoples/

consumers therefore, this court has no jurisdiction, application may be accepted and complaint may be dismissed.

4. Conversely learned counsel for the complainant opposed and contended that he is indulged in the business of agricultural products, moreover he is engaged in the process of cultivation with the farmers, he handed over the fertilizer to the farmers. Farmers told him that fertilizer was bogus and defective. He is consumer and not seller of fertilizer, the application may be dismissed and complaint may be decided on merits.

5. Arguments heard and record perused.

6. The perusal of the record shows that in Para No.1 of the complaint, complainant has stated that he is running the business of agricultural products in the name and style of Waseem Traders and is indulged in the business of sale and purchase of agriculture product. He is also broker, he works with the farmers for cultivating of the crops. In the Para No. 3

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and 4 of the complaint, complainant has stated that he purchased 150/- bags of fertilizer from the respondents through respondent No.1 and handed over to his farmers, who have reported that fertilizer was bogus and defective, he got checked

the fertilizer from laboratory, the laboratory reported that fertilizer is defective. The respondents have committed excess and cruelty with him and also with his farmers. The perusal of the record shows that on 03-09-2012 he delivered the legal notice through Shakeel Ahmed Khokar Advocate. The perusal of the said legal notice which is on file shows that in it he has stated that he is indulged in the business of sale and purchase of the agriculture products in the name and style of Waseem Traders. He purchased 150 bags of fertilizer in consideration of Rs. 1,62,000/-. He sold the fertilizer to the consumers. The purchasers disclosed that fertilizer was bogus and defective and they demanded the return of the amount from him. He got laboratory test of the fertilizer and came to know that the fertilizer was defective and bogus at this he returned the amount of purchaser to them. In the legal notice he demanded Rs. 162000/- price of the fertilizer from the respondent, Rs.

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100000/- damages towards the mental torture, Rs. 500000/- towards the business loss and Rs. 50000/- counsel fee.

7. The above said contents of the legal notice shows that there are contradictions of facts mentioned in the complaint filed by the complainant and the legal notice delivered by him. The legal notice was delivered/prepared by the complainant prior to the institution of the complaint and its facts fully constitute that the complainant was doing the business of selling the fertilizer to the consumers, he sold the fertilizer to the consumers meaning thereby complainant was not himself consumer. Under section 2 (C) of the Punjab Consumer Protection Act 2005 a person who resale the product for any commercial purpose can not file his complaint/claim in the District Consumer Court, therefore, in view of the above said embargo against the complainant who is not consumer and is rather seller of fertilizer I am agreed with the contention of the learned counsel for the applicant/respondent that complaint is not maintainable before the court consequently, the application filed by the applicants/respondents No.1&2 is hereby accepted and complaint is hereby rejected. However, the complainant

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may get relief from the court of jurisdiction if so advised. File

be consigned to the record room after it's completion.

Announced:
[22-01-2013.](#)

Presiding Officer,
District Consumer Court
Sialkot/Narowal.