

**In the Court of Atiq-ur-Rehman
District & Sessions Judge/ Presiding Officer
District Consumer Court Bahwalnagar**

Complaint No	02/17
Date of institution	26-11-16
Date of decision.	12-09-17

Abu Bakar Shad S/o S.D Shad, caste Rajpot R/o S.D Shad Street, Nizampura City and District Bahwalnagar. .

V/S

Haji Muhammad Afzal and Razzaq Ahmad (Proprietors Al-Makkah Al-Madina Tiles House) near Al-Quresh- Marriage Hall, chistian Road, Bahwalnagar.

Complaint under section 28 (4) of PCPA 2005 for redressal of grievance by recovery of expenses incurred by the complainant along with compensation and fine etc.

Order.

The complainant has filed the present complaint against the defendants with brief contentions that on 16-06-2016 the complainant purchased 20 feet tiles from the defendants against a consideration of Rs. 9400/-. It is stated that tiles were packed in a paper carton , the side of the carton was opened which clearly reflected that every carton had some broken tiles . That the complainant requested defendants to show him the tiles by opening the carton but defendant promised by saying that if any tile is broken or defective that will be replaced. It is stated that floor was under construction and when the mason opened the carton to use the tiles, it was observed that carton not only contained the broken tiles but also the tiles were different in three colours . All the broken and colored tiles were calculated and kept aside. That the complainant approached the defendants and requested to replace the tiles but defendant refused to replace the tiles and after some negotiation only 22 tiles were replaced and refused to replace the other 26 tiles. It is stated that it was the duty of defendants to disclose and show the tiles at the time of sales that what was in the said cartons but they dishonestly breached their duty and complainant grievance was not redressed even promised by the defendants after serving of legal notice. Being aggrieved after serving the legal notice filed the present complaint against the defendants.

2 Defendants were proceeded against ex-parte. Complainant in his ex-parte evidence examined himself as PW-1 and got exhibited his affidavit Ex-P/1, purchase receipt issued by defendants Ex-P/2, copy of legal notice Mark P/A and Mark P/A-1, its postal receipt Ex-P/3, acknowledgment due receipt Ex-P/4, returned envelope Ex-P/5, photographs of defective tiles Mark P/B to Mark P/C, photograph of defendant's shop Mark P/D, photographs of returned tiles Mark P/E.

3 Arguments heard: record perused.

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4 Complainant submitted his affidavit to corroborate the contentions of his claim and also tendered original purchase receipt Ex-P/2 to establish that complainant purchased the tiles from the defendants and snaps of the tiles to establish that tiles were broken and different in colours. Record shows that defendants were served but they did not appeared before the Court and were proceeded against ex-parte which shows that as a matter of fact conceded the claim of the claimant. Thus evidence led by the complainant goes un-rebuttal. So by virtue of ex-parte evidence: the complainant is successful to prove his version. Therefore, the complaint is accepted ex-parte and defendants are directed jointly and severely to pay the amount given below.

(i) Wages of construction.	Rs.7200/-
(ii) Price of the purchased tiles	Rs.9400/-
(iii) Replacement expenditure of tiles	Rs.20000/-
(iv) Miscellaneous and legal expenses .	Rs.20,000/-
Total.	Rs.56,600/-

5 The remaining claim of the complainant regarding appropriate litigation expenses, physical punishment to the defendants/ mental agony etc is not proved through any cogent and convincing evidence and is hereby dismissed. The

claim of the complainant is hereby accepted ex-parte in above terms. Costs would follow the event.

6 The Registrar of this Court is directed to send the attested copy of this order to the defendants and ensure the delivery of certified copy to judgment debtor/defendants informing him to pay the above decretal amount within 30-days to the complainant/decreed holder from the date of this order and in case of failing he may be punished with imprisonment for not less than one month which may be extended up to three years or with fine which shall not be less than Rs. 5000/- or both.

After completion, file be consigned to record room.

Announced
12-09-17

Atiq-ur-Rehman
D&SJ/Presiding Officer
District Consumer Court Bahwalnagar

It is certified that this Order consists of two pages which have been dictated, corrected and signed by me.

Announced
12-09-17

Presiding Officer
D&SJ/P.O, DCC, Bahwalnagar