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IN THE COURT OF SOHAIB AHMED RUMI
DISTRICT & SESSIONS JUDGE/PRESIDING OFFICER
DISTRICT CONSUMER COURT
SIALKOT/NAROWAL.



Case No. 66/2017

Date of Institution: 18-08-2017.

Date of Decision: 11.06.2018

Ali Ahmad S/O Muhammad Munir R/O wind, Tehsil Pasrur
District, Sialkot.

(Consumer/Claimant)

Versus

Ashraf Mistree (Mason) Mughal by caste R/O Class-wala
Mohallah Mal Pur, Tehsil Pasrur District, Sialkot.

(Defendant/Service provider)

CLAIM UNDER SEC. 25 OF THE PUNJAB CONSUMER
PROTECTION ACT, 2005.

JUDGMENT:

Brief facts of the case in hand launched under Sec. 25 of the Punjab Consumer Protection Act, 2005 leading to its disposal are that two years back claimant, Ali Ahmad entered into a contract with defendant for construction of his house. Defendant initially received rupees two lakh from claimant and bought articles worth Rs.90,000/- from sanitary store. According to claimant, defendant wasted material like cement, gravel and sand valued Rs. 150,000/-. Defendant did not complete the task due to which costs of labour and material increased to double. Legal notice on 05.08.2017 was served upon the defendant but no response thereof, hence, this claim for the recovery of damages.

02. Defendant while submitting reply, seriously controverted the

allegations and pleaded that he entered into (Conti 02)

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an oral agreement with the brother of claimant for construction of house at the rate of Rs. 120/- per square foot (P.Sft). He completed 3900 square foot while claimant paid only Rs. 45,000/- out of Rs. 468,000/-. Further contended that no power of attorney has been filed with the claim, complaint is not maintainable and that the Court has no jurisdiction to adjudicate upon the matter and claimed the dismissal thereof.

03. Evidence of the parties was recorded. Claimant, Ali Ahmad in order to discharge onus-probandy put his appearance in the Court as P.W.1. He produced his affidavit in the shape of Exh.P.1 and special power of attorney Exh-P.2. Learned counsel for the claimant while submitting copy of legal notice Mark-A, postal receipt for issuance of legal notice Exh.P.3, copy of receipt/bills Mark-B to Mark-L and closed the evidence. From the defendant side defendant himself appeared in the witness box as R.W.1 and produced Muhammad Atif as R.W.2. In documentary side they produced their affidavits in the shape of Exh-R.1 to Exh-R.2 and closed the evidence.

04. Arguments have been heard and record perused.

05. In Para No.01 of the complaint it is mentioned that Muhammad Munir father of the claimant, Ali Ahmad is not available having gone to another city for earning bread and butter, therefore, complaint is being filed by Ali Ahmad. It is nowhere mentioned that in what capacity Ali Ahmad has filed the complaint. However, during pendency of case a power of attorney Exh-P.2 was placed on record in which it is mentioned that Muhammad Munir has appointed his son Ali Ahmad special attorney to file the case.

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The date of execution of document Exh-P.2 is no where mentioned, however, from the over leaf the date of purchase is visible as 20.10.2017. Whereas, the complaint was filed in this Court on 18.08.2017 without any legal authority by Ali Ahmad complainant.

06. As for as merits of the case is concerned, it appears from the evidence that both the parties entered into an oral agreement for construction of the house 3/4 years ago as disclosed by Ali Ahmad complainant during his cross-examination meaning thereby that the agreement was executed way back in the year 2014. One of the Rw.2 Muhammad Atif during cross examination mentioned that the agreement was made in the year, 2015. In this way abnormal delay in filing the case in August, 2017 has no where been explained. According to the complainant Ali Ahmad he is unaware of the terms and conditions of the agreement. Ali Ahmad, complainant admitted that he never made any payment to the respondent which was made by his father and elder brother Muhammad Ali. Ali Ahmad specifically admitted that payment of Rs. 200,000/- (Rupees two Lakhs) mentioned in Para No.02 of the complaint was not made by him.

07. I have thoroughly gone through the record. Who made the payment, what payment was made, who witnessed the making of payment, what were the terms and conditions settled between the parties through oral agreement, how much construction work has been done at site and what has been left unfinished, not an iota of evidence has been placed on record without which, defective service on the part of respondent cannot be ascertained, even, the cutoff date or execution of the project

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has not been brought on record. The detail of damage by wasting building material by the respondent as alleged in the complaint has also not been elaborated. Not a single witness came forwarded to support, corroborate or elaborate the statement of the complainant.

08. For all what has been discussed above the complaint is dismissed being without any merit and has been filed unauthorizedly. There is no order as to costs. File be consigned to the record room after its due completion.

Announced:
11-06-2018.

Presiding Officer
District Consumer Court
Sialkot/Narowal.

CERTIFICATE

Certified that this order contains four pages and each of pages is dictated, corrected and signed by me.

Announced:
11-06-2018.

Presiding Officer
District Consumer Court
Sialkot/Narowal.



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