

**IN THE COURT OF EJAZ AHMAD BUTTAR
DISTRICT & SESSIONS JUDGE / PRESIDING OFFICER,
DISTRICT CONSUMER COURT,
FAISALABAD.**

Complaint No	1349/10
Date of institution	22-2-10
Date of decision	24-11-10

Muhammad Azmat Sarfraz Vs. SELECTO Mobiles & Nokia Care
Office, Faisalabad etc.

Petition under Punjab Consumer Protection Act 2005.

ORDER

Brief facts of the case are that petitioner purchased Nokia 5800 Music Express mobile set from respondent No.1; the set allegedly developed some defect/problem. The petitioner took it for checking / repair by respondent no.2 (Nokia Care) as the mobile set was still within the warranty period. After checking it respondent no.2 returned the same to petitioner stating that they had no warranty of set and that respondent No.1 (SELECTO Mobiles) had given him fictitious warranty. Respondent No.2 also misbehaved with petitioner. Therefore, he demanded from respondents to refund him sale price of mobile set (Rs.30,000/-) and also pay an amount of Rs.1,00,000/- on account of physical / mental discomfort suffered by the petitioner. On refusing to compensate him, the petitioner sent them legal notice by Registered post but to no effect. Hence, this petition for refund of sale price of mobile set as Rs.30,000/- and damages of Rs.1,00,000/-.

2. After issuance of court process both the respondents appeared but written statement was filed by respondent No.1 only whereas respondent No.2 did not appear on 23-6-10 and was proceeded ex-parte.

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3. In support of his claim, the petitioner appeared as PW-1 and also placed on record his sworn affidavit EX-P1, dispatch receipt EX-P2, copy of legal notice EX-P3, warranty card of Imperial Telecom EX-P4, purchase receipt of mobile set EX-P5, basic warranty check EX-P6 and Inquiry Report EX-P7. On the other hand, respondent's attorney Muhammad Saleem appeared as DW-1 and also filed his sworn affidavit EX-D1 and Basic warranty check EX-D2, (also produced by the petitioner as Ex-P-2).

4. As already stated petition was contested by respondent No.1 only whereas respondent No.2 was proceeded ex-parte on 23-6-10. It would appear from perusal of parties' evidence that respondent No.1 did not give any fictitious warranty card to the petitioner as they did not deny to have issued Warranty Card (Ex-P-4). They were all along willing and prepared to redress petitioner's grievance about any fault in mobile set which the petitioner has not pin pointed in his petition as he simply claimed that the suit mobile set had developed some 'problem'. Petitioner's actual grievance is that he was sold product of Nokia but was not given any warranty but it was denied by respondent No.1. The contents of general Inquiry Report (EX-P7) would show that only respondent No.2 were liable as per terms and conditions of warranty, therefore, they owe liability to redress petitioner's grievance and not respondent No.1 who had only sold suit mobile set and were always willing and prepared to redress petitioner's grievance. It is pertinent to note that petitioner was sold the suit mobile set after making him understand all the implications/consequences but still the

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petitioner proceeded to purchase the product, therefore, petitioner's claim is liable to be decreed against respondent No.2 only and not respondent No.1.

5. For what has been discussed above, petition is accepted and disposed of in the manner that respondent No2 shall refund an amount of Rs.20,000/-, as depreciated value of mobile set; they shall also compensate the petitioner by paying him Rs.10,000/- on account of his suffering physical and mental discomfort. Petitioner's remaining claim is however dismissed.

6. After due completion, file be consigned to record room.

Announced
24-11-10

Ejaz Ahmad Buttar,
District & Sessions Judge/
Presiding Officer,
District Consumer Court, Faisalabad.

Certified that this order consists of three pages which have been corrected and signed by me.

Announced
24-11-10.

Presiding Officer,
District Consumer Court, Faisalabad.