

26.11.2018

Adversaries with respective counsel.
Arguments heard.
To come up on 27.11.2018.

Amr
26.11.2018

Muhammad Sarfraz Akhtar
DISTRICT & SESSION JUDGE
Presiding Officer
District Consumer Court
M.B.Din

27.11.2018

Adversaries in person.
Ahmed is directed to annex original file which file
to come up for orders on 3.12.2018

Amr
27.11.2018

Muhammad Sarfraz Akhtar
DISTRICT & SESSION JUDGE
Presiding Officer
District Consumer Court
M.B.Din

[Faint handwritten notes in Urdu, likely detailing the court proceedings and the petitioner's arguments.]

03.12.2018

Present: Fayyaz Ahmad Petitioner-J/D in person.
Muhammad Anwar Respondent-D/H in person.

Arguments already heard.

Instant application for setting aside ex-parte order dated 15.10.2018 has been filed by the petitioner/JD on the ground that in fact he was made to believe that the respondent/DH would withdraw the complaint and due to this belief he did not appear and was proceeded against ex-parte. Learned counsel for the petitioner maintained that order dated 15.10.2018 be set-aside and petitioner be allowed to contest the complaint.

Contention of learned counsel for the complainant/respondent was that full opportunity was accorded to the petitioner and he deliberately opted to absent from the proceedings.

The record reflects that the defendant initially contested the complaint by filing written statement. He appeared in person along with his counsel on various dates but preferred to get absent at the time when matter was fixed for evidence. Thereafter he was proceeded against ex-parte on 17.09.2018.

Subsequently, evidence was recorded and then on 15.10.2018 Order was passed in terms of section 31 of the Consumer Protection Act 2005, defendant was directed to make payment of Rs.75,000/- (seventy five thousand) to the claimant. It was held that in case of failure to comply with the order, the defendant shall have to face the consequences mentioned in section 32(2) of the Act *ibid*. Copy of the order was provided to the claimant and also sent to the defendant in line with Rule 17 of the Punjab Consumer Protection Rules, 2009. The record reflects that copy was sent through registered post No.1119 dated 16.10.2018 receipt of which is available on original file.

Even during pendency of execution petition petitioner-J/D avoided the process to optimum level. Upon issuance ofailable arrest warrant, surety bond was submitted. Despite execution of bond for appearance he did not turned up and ultimately, his attendance was got procured by issuance of non-ailable arrest warrant that was executed through police. Thereafter, he was released on the condition of deposit of 1/3 of decretal amount. In the meanwhile instant application was filed.

In the execution proceedings on 26.11.2018 learned counsel for petitioner-J/D maintained that petitioner-J/D is ready to deposit remaining decretal amount in line with direction contained in order dated 15.10.2018. He was allowed to do so whereafter remaining 2/3rd amount to the tune of Rs.50000/- was deposited with the Registrar of this Court and execution proceedings was disposed of with the observation that "The matter having been settled, nothing is left to be done at this stage. This petition for the time being stands disposed of."

The manner in which the petitioner acted during proceedings of complaint and then his subsequent conduct during execution proceedings in itself negates the stance mentioned in the application. Unfortunately, it is one of the increasingly popular tactics amongst the faulting litigants to

evolve such device to prolong petty matters just to frustrate the dictate of law.

In the instant case as mentioned supra not only that the petitioner initially contested the complaint and then got absent but even copy of the order dated 15.10.2018 was sent to him by the court and then during execution proceedings when bailable arrest warrants was issued he executed surety bond but did not turned up in the court and his attendance was got procured through police by issuing non-bailable arrest warrants. Further during execution proceedings now entire decretal amount has been paid. Keeping in view all these factors and the conduct of the petitioner there is no merits in this application. The same stands dismissed. Be annexed with main file and consigned to the record.

Announced
03.12.2018.



(Muhammad Sarfraz Akhtar)

District & Sessions Judge/ Presiding Officer,
District Consumer Court Mandi Baha-ud-Din