

**IN THE COURT OF MUHAMMAD YOUSAF  
PRESIDING OFFICER DISTRICT CONSUMER  
COURT, GUJRANWALA  
Case No.18/10**

Date of institution : 27-01-10.

Date of Decision : 11-10-11.

Muhammad Ghulzar Khan S/o Babu Khan R/o Chord Munda Tehsil Pasror District Sialkot. (complainant)

Vs.

1. Rana Javaid Khan S/o Haji Muhammad Jameel late R/o Sabaz Mandi Kamoki District Gujranwala.
2. Haji Ashiq Pehalwan Uraf Ditta Pehalwan, Chairman Sabaz Mandi Kamoki District Gujranwala. (respondents)

**COMPLAINT UNDER SECTION 25 OF THE PUNJAB CONSUMER PROTECTION ACT, 2005.**

**JUDGMENT:**

1. Muhammad Ghulzar Khan, complainant an agriculturist by profession has filed the instant complaint with the accusation that on 07-10-09 he approached the respondents for purchase of green cross pea seed of Holland where upon he was provided the seed for 13 acres of land in Rs.1,50,800/- but on cultivation it was found defective and substandard. According to the complainant the seed provided was of 3 different varieties out of which some could develop in to plants. Complainant has alleged that he made a complaint to Deputy District Officer, Agriculture Pasrur who inspected the crop on 15-01-10 and submitted his report on 18-01-10 wherein the quality of seed was declared substandard and of two varieties, one early maturing and other late maturing. Complainant has claimed Rs.20,00,000/-, as compensation on the ground that 13 acres of land was destroyed.

2. This complaint was resisted by the respondents who have denied the allegation by taking the stand that as per demand complainant was provided imported seed of high quality of which germination is 85%. According to the respondents complainant was provided seed, fertilizer and pesticides etc, by the respondent No.1 on credit basis and the same was to be adjusted with sale of crop, through respondent No.1 who are having the business of commission agent in vegetable Mandi Kamoki but with malafide, complainant has sold away the crop at Gujranwala and now to avoid the payment of Rs.4,47,738/- outstanding against him, this false complaint has been filed.

3. Reconciliation proceedings remained unsuccessful whereupon parties were required to produce evidence.

4 Complainant has got recorded his own statement as PW1 and has also produced PW2 Muhammad Shabir and PW3 Muhammad Anwar Awan, Deputy District Officer, Agriculture Pasrur.

5. In rebuttal, there are statements of RW1 Naeem Yousaf, Seed Analyst who has examined the crop as per direction of this Court and has submitted his report "RW1", RW1/1 Rana Javaid, RW2 Mubarak Ali and RW3 Muhammad Ashiq Hussain. On documentary side, copy of Khata maintained by respondent No.1 in the name of complainant Exh."R1", certificate regarding germination Exh."R2" and report of Plant Protection Bureau Exh."R3" have been placed on record.

6. Contention of learned counsel for the complainant while referring the written reply is that import of seed by respondent No.2 and supply of same to complainant has been admitted and as through complainant's evidence including the evidence of expert PW3 Muhammad Anwar Awan, Deputy District Officer, Agriculture Pasrur, complainant's allegation that seed provided was substandard and faulty is being established, so, complainant is entitled for compensation as prayed for. He has also referred the statement of RW1 Naeem Yousaf Seed Analyst and report submitted by him "R1" wherein seed supplied has been reported to be two different varieties, one early maturing and other late maturing.

7. Conversely, arguments advanced are that complainant has remained unsuccessful in proving his allegation that he could not procure yield from the crop rather the report "PD" prepared by Muhammad Anwar Awan, Deputy District Officer, Agriculture Pasrur and Exh. "R1" by Naeem Yousaf Seed Analyst are negating complainant's version. According to the learned counsel for the respondents, Exh."R1" which is prepared in daily course of Business is establishing on record, respondents contention that present complaint has been filed just to avoid of payment of Rs.4,47,738/. He has also referred the report of Department of Plant Protection, Ministry of Food, Agriculture and livestock in support of arguments that Seed imported by respondent No.2 was of high standard.

8. Respective arguments of parties have been heard, record perused.

9. Through the instant complaint allegation leveled against the respondents is that have provided faulty and substandard pea seed which on cultivation could not produce yield. To prove the same complainant has got recorded his own statement and of Muhammad Shabir PW2 besides the statement of PW3 Muhammad Anwar Awan, Deputy District Officer, Agriculture Pasrur who has proved his report Exh."PD" also wherein complainant's allegation of providing him faulty and substandard seed is being

proved. Evidence of expert PW3 Muhammad Anwar Awan, Deputy District Officer, Agriculture Pasrur who on submission of application has inspected the crop and prepared the report Exh."PD" is of great significance as in it observation has been made that crop was mixture of 2 varieties, early and late due to which plants remained different height and as time of maturity was different, so, picking of the matured fruit was not possible, Naeem Yousaf RW1 who has examined crop on direction of Court and has prepared the report Exh."R1" also corroborates the report Exh."PD" as according to his report the seed provided was of 2 varieties early and late. During the cross examination he has admitted that in case picking of product from early variety plants, the plants of late variety were to be effected.

10. On behalf of the respondent although RW1 Rana Javaid has deposed that he himself has visited the disputed crop which was healthy and complainant after picking up the yield, has sold the same at Gujranwala but his said statement is not being corroborated as other RWs are silent in this regard. Further he has also not disclosed the name of shop/commission agent through whom said pea crop was sold way by complainant.

11. Because of above said factual position, from respondents own evidence it is being established that supply of seed was substandard being mixture of late and early variety and as picking of early variety product has damaged the late variety, so, respondents are held responsible for causing loss to the complainant by importing/sale of substandard seed, hence complainant is declared entitled for the price, he actually paid to the respondents which admittedly is Rs. 1,50,800/-. Although he has claimed Rs.20 lac but same cannot be awarded as according to PW2 Muhammad Shabir, he has suffered loss of Rs.4/5 lac. Keeping in view the available evidence particularly the reports of experts according to which complainant was in position to obtain the product to some extent, complainant is declared entitled for Rs.100000/- as damages/compensation besides Rs.5000/- as litigation charges. Respondents are directed to pay the above said amount to the complainant within 30 days of announcement of this judgment. File be consigned to record room after is due completion.

**Announced:**

11-10-11

(MUHAMMAD YOUSAF)  
Presiding Officer  
District Consumer Court,  
Gujranwala.

Certified that this judgment is consisting of three pages, which have been dictated corrected and signed by me.

11-10-11

(MUHAMMAD YOUSAF)  
Presiding Officer  
District Consumer Court,  
Gujranwala.

