

**In the Court of Mr. Muhammad Aslam
District & Sessions Judge/ Presiding Officer
District Consumer Court Bahawalnagar**

Complaint No 19/17
Date of institution 26-07-17
Date of decision. 29-08-19

**Ghulam Rasool S/o Pannu Khan Caste Sial R/o Cha Pannuwala Mouza
Kot Rashid Tehsil Chistian Bahawalnagar.**

V/S

- 1. Zia Ahmad Alias Boby Sheikh Proprietor Raja Spray Center Dealer
Jaffar Agro Services Ghalla Mandi Chistian.**
- 2 Jaffar Agro Services (Pvt) Ltd City Tower 33-A Block, PECSH,
Shahrah-e-Faisal Box No. 1829 Karachi.**

**Complaint u/s 13,25 of PCPA 2005
read with rule 13, 2009 due to
defective product.**

Order.

The complainant has filed the present complaint against the defendants with brief contentions that on 29-05-2017 being a farmer he visited Chistian Ghalla Mandi for purchasing of weedicide to destroy the weeds in his field of Sugar-cane and desired to purchase the best's company weedicide spray, where defendant No. 1 convinced him that Jaffar Agro Company's products are best in quality and suggested to purchase the weedicide spray of defendant No. 2 by showing him different brands of the company and upon insisting of defendant No. 1 he purchased Yummy Spary against a consideration of Rs. 5000/- in the presence of the witnesses for which receipt was also issued. It is stated that on very next day as per advise of defendant No. 1 he sprayed the weedicide on his sugar-cane crop of six and half Acre situated in Kot Rasheed. It is stated that after about 4/5 days of Spray, his crop begun to shrink and burnt. He visited shop of defendant No. 1 and protested regarding his loss as his crop was completely destroyed valuing of Rs. 10,00,000/- but defendant No. 1 refused to compensate the loss of complainant by stating that as such company is responsible for such like losses and refused to redress the grievance of the complainant. The complainant also moved application before Assistant Director Agriculture Plant Protection but all in vain. Being aggrieved after serving legal notice he filed complaint against the defendants.

2 The defendant No.1 has contested the complaint by filing written statement both on law and facts. It is maintained that defendant No. 1 did not sell the product to the complainant; he left the business due to his cancer disease since 14-12-16. The defendant sent sample through Raja Spray Center belongs to his brother whereas he was running the business

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with the name of Sadiq Spray Center. It is stated that initially complainant tried to convince him to blackmail the defendant No. 2 and upon his refusal, filed the instant complaint without any justification, just to blackmail him due to which tension his disease raised up from 1st stage to 2nd stage. It is further stated that complainant is a habitual litigant. It is prayed that complaint be dismissed whereas right of defendant No. 2 to file written statement was closed vide order dated 26-09-17.

3 The complainant appeared as PW-1 tendered his affidavit as Ex-P/1, purchase receipt Ex-P/2, legal notice Mark P/A, its postal receipts Ex-P/3-4, snaps of crop Ex-P/5, Report of result of analysis test of sample of pesticide by government analyst Ex-P/6. Complainant also produced PW-2 Riaz Ahmad who tendered his affidavit Ex-P/7 and in documentary evidence tendered Bottle Youmy product in question Ex-P/8 whereas on the other hand, defendant No. 1 appeared as DW-1, tendered his affidavit Ex-R/1, and also produced DW-2 Ch. Khalid Mehmood who tendered his affidavit as Ex-P/9. In documentary evidence tendered photocopy of renewal of certificate of registration as a dealer/vendor of agriculture pesticide as Mark P/A.

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4 Learned counsel for the complainant argued that complainant is experienced Farmer doing farming since long. He applied the spray as per instructed doze by defendant No. 1. It is argued that defendant No. 1 sold the Spray to the complainant and now he is denying this fact just to save himself to pay the loss of the complainant. The complainant visited the shop of the complainant, he was sitting there, issued receipt to the complainant and sample sent to the Agriculture Department was also through the source of defendant No. 1. It is contended that defendant No 1 sold the defective product of defendant No. 2 to the complainant due to which he had to suffer the huge loss of Rs. 10,00,000/- approximately. It is argued that both the defendants are liable to pay the loss of the complainant. Prior to filing of this case, the complainant approached defendant No. 1 and requested him to compensate him as per his loss but all in vain and ultimately he had to sever legal notices upon the defendants and was constrained to file this complaint before this court.

5 Contrary, learned counsel for the defendant No. 1 contended that complainant has no locus standi to file the instant complaint against him, as

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he did not sell any product to the complainant, alleged annexed receipt does not bear the name, stamp and signature of seller what so ever. The complainant never visited his shop Sadiq Spray Center. It is further argued that defendant No.1 relinquished his business in the month of December 2016 after diagnosis of his cancer disease. It is argued that crop of the complainant did not burnt or shrink etc rather he got the full produce of the crop and filed this complaint just to blackmail him to extort the money being a businessman which hurt him a lot and his cancer disease stage raised up from first stage to second stage. It is further argued that complainant got the analysis report which resulted as of standard quality as specified.

6 Learned counsel for defendant No. 2 conducted cross examination on both the PWs and advanced arguments in defense of defendant No. 2 by contending that Defendant No 2 is registered and renowned company in the field of Pesticide etc. The Spray sold to the complainant was of best in quality, not expired etc. It is further argued that Agriculture Chemist Report declared the sample as per standard quality specified. Learned counsel for defendant No. 2 contended that complainant's application of spray was not according to instruction written on the bottle and due to over doze of spray, might there was some brunt spot occurred on the leaves of the sugar cane crop which later on cover up gradually . It is argued that if any loss is suffered to the complainant, it was due to wrong application of the Spray and nothing else. It is prayed that complaint be dismissed

7 Arguments heard: record perused.

8 After hearing the arguments and perusal of record this Court finds that case of the complainant is that spray sold to him by defendant No. 1 was substandard quality due to which spray his crop of Sugar-cane was burnt whereas stance of defendant No. 1 is that he never sold any spray to the complainant. He purchased the spray from Raja Zari Spray Center. In evidence the complainant and his witness stated that defendant No. 1 signed the purchase receipt Ex-P/2 which is denied by defendant No. 1. The bare

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perusal of purchase receipt Ex-P/2 tendered by the complainant himself, does not reveal that who purchased the product from whom as Ex-P/2 does not contain the name of the purchaser or seller. So from Ex-P/2 it cannot be assumed that complainant purchased the Spray from defendant No. 1 and there is no link ~~is~~ established between the complainant and defendant No. 1 as seller and purchaser.

9 To ascertain the quality of the Spray of defendant No. 2, the complainant has failed to produce any documentary evidence i.e report of any department to establish that Spray sold to the complainant was substandard. The complainant himself produced report Ex-P/6 which shows that sample referred to was of standard quality as specified. No other documentary evidence is available on the record to establish the stance of the complainant that due to spray of the defendants he suffered from loss. The picture of the crop Ex-P/5 does not clear that it is the picture of complainant's crop and complainant himself stated in cross examination that he cannot prove that picture Ex-P/5 is of his crop.

For the reasons stated above the complainant has failed to prove his case, so the complaint is hereby dismissed.


After completion, file be consigned to record room

Announced
29-08-19


Muhammad Aslam
D&SJ/Presiding Officer
District Consumer Court Bahawalnagar

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

Announced
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Presiding Officer
D&SJ/P.O, DCC, Bahawalnagar