

**In The Court Of Syed Maruf Ahmedali Presiding Officer
District & Sessions Judge District Consumer Court
Lahore.**

Ijaz Ahmed V/S Nestle Nirala Dairies Etc.

Order.

The Complainant has filed a claim for recovery of damages amounting to Rs. 50000/- along with costs of Rs. 15000/- and price of the Desi Ghee against the Respondent.

2 Brief facts, according to the Complaint are that the Petitioner on 13.12.2007 purchased 8 Tin/Canisters of Desi Ghee weighing 16 KG each manufactured by Nirala Dairies Respondent No.1 @ 2929/- per Canister. The total amount of 8 Canisters is Rs.23432/- .It is alleged that when the Complainant opened one Canister of Desi Ghee and used it, it caused Throat infection and he suffered from health problem. The Complainant and his family suffered medically .The Desi Ghee also gave bad smell and is not fit for human consumption. It is further alleged that the product of Respondent No.1 i.e. Desi Ghee is defective and damaging the human health. Legal Notices were issued to the Respondents who did not pay any heed. Hence this Complaint in which the Complainant has claimed the refund of the sale price amounting to Rs. 23432/- of the Desi Ghee damages amounting to of Rs. 50000/- and cost amounting to Rs. 15000/-

3 The Respondents were summoned Raja Jahanzeb (Regional Sales Manager) appeared on 27.05.2008 and was provided the copy of the Complaint and the case was adjourned for filing of Written Statement .Several opportunities were given for filing of Written Statement . On 15.09.2008 the defense of the Respondents was struck of. On 07.10.2008 Kashif Qamar (Admin Assistant) appeared on behalf of Respondent No.1 and requested for reconciliation. The case was adjourned for reconciliation for 23.10.2008. Ijaz Ahmed (Manager Admin) appeared

for Respondent No.1. Reconciliation could not synchronize between the parties and the case was fixed for evidence of the Complainant. There after the Respondents absented themselves and were proceeded against Ex-Parte on 06.11.2008. Ex-Parte evidence of the Complainant was recorded as PW-1. Sample of Desi Ghee was sent to the Food Laboratory for analysis on 24.11.2008. The said report has been received which is Ex-C/1 for reference. Ex-Parte arguments on behalf of the Complainant have been heard.

4 It is contended by counsel for the Complainant that the Complainant has proved his case and has supported the contents of the Complaint which is corroborated by the analysis report of Desi Ghee. There is no evidence in rebuttal. He has prayed that his claim be accepted.

5 After hearing the arguments of the counsel for the Complainant and perusing the record. It has been proved on record that the Complainant who has appeared as PW-1 purchased 8 Tin/Canisters of Desi Ghee of 16 KG each, on 13.12.2008 manufactured by Nirala Dairies @Rs 2929/- The total amount of the 8 Canisters is Rs. 23432/- Analysis report of the Desi Ghee dated 04.12.2008 also supports the version of the Complainant that the Desi Ghee is giving foul smell and is un fit for human consumption. However the Complaint has failed to prove the damages

6 The Respondents were given several opportunities to appear and defend the case. Representative of Respondent No1 appeared in this Court personally on 27.05.2008, 07.10.2008 and 04.11.2008. There after they absented themselves and Ex-Parte proceedings were ordered .There is no evidence in rebuttal.

 In view of the afore said reasons this Petition is accepted. Respondent No.1 i.e. M/S Nirala Dairies who are manufacturers of Desi Ghee purchased by the Complainant are directed to refund the price of 8 Canisters of Desi Ghee amounting to Rs. 23432/-. Respondent

No.1 shall also pay fine of Rs. 50000/- under Section 32 of the Punjab Consumer Protection Act 2005 for manufacturing a defective product which is unfit for human consumption according to the Analysis Report Ex-C/1. The fine shall be deposited in the Government Treasury. Respondent No.1 is also burdened with costs of Rs. 5000/- which shall be paid by the Respondent within 10 days from the date of this Order. Remaining 7 Canisters of Desi Ghee are confiscated and shall be destroyed after the period of Appeal or Revision if any. One Canister of Desi Ghee has already been deposited in the Court for sample purposes. All the seven Canisters of Desi Ghee shall be deposited by the Complainant with the DCO Lahore for safe custody and necessary action.

File be consigned to record room after due completion.

**Announced
05.12.2008**

**Presiding Officer
District Consumer Court
Lahore.**

Certificate

Certified that this Order consist of Three (3) pages which have been dictated, read, corrected and signed by me.

**Announced
05.12.2008**

**Presiding Officer
District Consumer Court
Lahore.**