



بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

**IN THE COURT OF TAHIR PERVEZ DISTRICT &
SESSIONS JUDGE, DISTRICT CONSUMER COURT,
SAHIWAL.**

Case No. 798/DCC/SWL

Dated. 26-08-2011

**CH. IMRAN BASHIR S/O HAJI BASHIR, CASTE ARAIN, R/O
MADHALI SHARIF, CHAK NO. 87-A/6-R TEHSILE & DISTRICT
SAHIWAL.**

-----CLAIMANT

Versus

1. AGRI FARM SERVICES THROUGH MALIK IMRAN AZIZ S/O ABDUL AZIZ.
2. MALIK IMRAN AZIZ S/O ABDUL AZIZ R/O 77, INDUSTRIES ESTATE, MULTAN.
3. MALIK AAMIR AZIZ S/O ABDUL AZIZ R/O 77, INDUSTRIES ESTATE, MULTAN.
4. IFTIKHAR RASHEED PROPRIETORS SAIN KALE SHAH, CHAK NO. 88/6-R (NEKI WALA) TEHSILE & DISTRICT SAHIWAL.
5. RASHID MUKHTAR PROPRIETORS SAIN KALE SHAH, CHAK NO. 88/6-R (NEKI WALA) TEHSILE & DISTRICT SAHIWAL.
6. MR. MUHAMMAD SAJJAD ALI, SALES OFFICER AGRI FARM SERVICES MULTAN ROAD BY PASS SAHIWAL.

-----DEFENDANTS

CLAIM FOR THE RECOVERY OF RS. 15,50,000/-

Order.

1. Briefly stated facts of the case are that the claimant was a farmer by profession. He was cultivating different crops in his field. The defendant No. 1 i.e Agri Farm Services was a manufacturer of developed cotton seeds with the mark and name of "Sitara Seeds" under the variety head of BT Sitara 008-MG 6 introduced for growing cotton for the year 2011 by ensuring a maximum yield over and above 80 maunds per acre. The plaintiff purchased 07 bags of the said cotton seeds on 09-03-11 from dealer/distributor, the defendant No. 4&5 on the recommendations of Sales Officer, the defendant No. 6 with firm assurance that the seeds were of highest quality with maximum crop of cotton per acre. The claimant, in compliance of the instructions contained in the brochure under the instructions of defendant No. 6, prepared his land measuring 7.5 acres in early days of March 2011 and planted the said seeds therein. The defendant

No. 6 occasionally inspected the field crop. After expiry of about two months, the plants did not show any sign of “phul/ghuddi” and simultaneously, some plants were visible as of “Desi Cotton. Despite expiry of period of four months after the cultivation of the crop, there were no sign of “phul/ghuddi” nor “Tinda/Gokru” could be seen on the cotton plant. After issuance of statutory notice, some plants of cotton showed a very few number of “phul/ghuddi” at the top of the plants which were picked in early days of August 2011. It hardly weighed 40 kg per acre whereas actual crop of cotton crop would have started from bottom but on the said plants, there were no such signs at bottom and middle of the plants. The entire field was giving bad look despite the fact that plants available on entire said area looked to be very healthy. The claimant submitted that he had used all types of fertilizers and insecticides for the proper growth of cotton crop. Apart from sowing expenditure of Rs. 15,000/- per acre, the claimant incurred an expenditure of Rs. 50,000/- on the insecticides and fertilizers. After having observed no signs of any yield from the said cotton plot which expected to bring Rs. 15,00,000/- with the yield of 80 maunds per acre @ Rs. 2500/- per maund, the claimant informed the defendant No. 6 to inspect the crop but he avoided to do so. The claimant issued the legal notice to the defendants which was not replied. The claimant prayed that the amount of Rs. 15,50,000/- may be ordered to be paid to him besides costs of litigation.

2. The defendant No. 1 to 3 and 4 resisted the claim and refuted the allegations leveled by the claimant. According to them, maximum yield above 60 maunds per acre was not ensured by them. The pamphlets issued by the Company advertised with the variety sold to the claimant was better quality seed for its produce. However, the good quality yield depended upon weather condition and other natural sources. The Company denied that the claimant was ever persuaded to purchase seeds as mentioned in the claim. It also refuted that any representative was deputed to inspect the field crop of the claimant. They alleged that the claimant failed to properly maintain his field due to his own negligence and could not get fruitful results from the cotton field and in such circumstances, the Company was not responsible for obtaining less yield from the field.

3. The defendant No. 5, Rashid Mukhtar being proprietor of “Sain Kaley Shah Agriculture Services” submitted that he was authorized dealer of the Company i.e Agri Farm Services. He imported the seeds cotton variety Sitara BT – 008 through invoices. He had received sealed bags and

out of those bags, he sold 07 bags to the claimant on 09-03-11. On receipt of an application that the plant had not brought "phul/ghuddi" he had inspected the field of the claimant in the month of June and July. He observed that different kinds of plants were present in the cotton field crop of the claimant and there was no sign of "phul/ghuddi" on 75% crop. According to him, he managed the inspection of cotton seed crop of the claimant through senior officers of the Company who admitted before them that seeds were defective and adulterated. He exonerated himself from any fault. He concluded his written statement with assertion that it was the Company which was responsible for supplying inferior quality and adulterated seeds.

4. The claimant filed an application in the Court with prayer that for appropriate appreciation of available condition of the cotton crop at the site, and production of material object inspection of the present condition of the cotton crop at the site was very essential. Vide order dated 8-9-11, this application was accepted and EDO Agriculture Extension Sahiwal was appointed as local commission to inspect the disputed cotton crop and submit his report within 15 days. The EDO Agriculture Sahiwal inspected /visited the disputed cotton field of the claimant on 27-9-11 in presence of both the parties. Report of EDO Agriculture Sahiwal was made part of the record as Ex-P1 on 21-04-12. The parties were afforded opportunity to file their objections but none filed any objection. Since the controversy between the parties could only be settled after recording evidence, therefore, the parties were provided opportunities to produce their respective evidence in support of their assertions.

5. Claimant examined himself as Pw-1. His documentary evidence comprises of report of EDO Agriculture Sahiwal P1, legal notice Ex-p2, brochure Ex-P3, receipts Ex-P4/ 1, 2 original receipt post office Ex-p5 to P9, original registered envelope Ex-p10, receipt AD Ex-p11 to P14.

6. The Agri Farm Services, the defendant No. 1 to 3 & 6 examined Muhammad Sajjad Sales Officer Dw-1 and Khizar Hiyat Dw-2.

7. Imran Bashir, the claimant in his statement in chief, reiterated facts incorporated in the claim. During cross examination, he admitted that the

soil where potatoes were earlier sowed, would carry extra strength. He admitted that during cotton crop season extra rain had fallen. However, he denied that any fault was committed on his behalf in sowing the cotton.

8. Muhammad Sajjad Sales Officer Dw-1 reproduced company's defence taken in the written statement. However, during cross examination, he admitted that he had accompanied the officer of the agriculture department at the time of the inspection of the crop. He admitted that Rashid Mukhtar, the defendant No. 5 was still working as their dealer. However, he showed ignorance as to whether the said defendants agreed with the allegations leveled by the claimant. Khizar Hayat Dw-2 stated that he had also purchased the same seeds from the defendant but he was not aggrieved of any act of the defendants. This witness could not produce any receipt regarding purchase of same seeds from the defendants.

9. The undeniable facts of the case are that claimant was a cultivator by profession. The defendant No. 1 to 3 is manufacturer /supplier of seeds with the mark and name of Sitara under the variety head of BT Sitara 008 MG6. The defendant No. 6 acted as Sales Officer of the defendant No. 1 to 3. The defendant No. 4 and 5 were proprietors of "Sain Kaley Shah Agri Services". The disputed seeds were purchased by the claimant on the motivation of the defendant No. 6 through the defendant No. 4 and 5. The factum of purchase of seeds, sowing thereof and poor results was not denied by any party.

10. The only assertion taken on behalf of the contesting defendants were that it was negligence of the claimant himself which brought poor results and cotton seeds could not bring the requisite produce. They took plea that previously, the potatoes crop was sowed in the field and because of this crop, the soil was carrying extra strength. They also alleged that heavy rains also caused damage to the cotton crop of the claimant besides that the claimant was himself negligent in applying proper fertilizers and sprays.

11. Needless to mention that potato crop had already been removed/cut from the field. After removing/cutting crop, fertilizers and pesticides used during that crop would have lost their significance/utility. Obviously the same land was to be used for next crop i.e cotton and for that purpose the claimant had adopted all precautionary measures by using proper fertilizer

and applying pesticides etc. The phenomena of rain had happened in late days and not during days when cotton seeds were sown. The sprays etc also appeared to have been purchased from the same dealer, obviously, for using in cotton field.

12. In order to arrive at just and fair conclusion, on the request of the claimant, EDO Agriculture Sahiwal was directed to visit the cotton field of the farmer. The said officer, on 27-09-11, visited the cotton field in presence of Company's representative Muhammad Sajjad and dealer Rashid Mukhtar besides others. The EDO Agriculture Sahiwal made following observations of the cotton crop after selecting 20 plants randomly.

1	No . of cotton plants per acre	20,000
2	Average height of crop	190 cm
3	Average no. of nodes	48
4	Average No. picked bolls	3.70 maunds
5	Average no. mature bolls	1.75 maunds
6	Plant to plant distance	9-12 inches
7	Row to row distance	2.5 ft
8	Plant stand	Healthy
9	Previous crop	Potato

The observations of EDO (Agri) Sahiwal would show that farmer adopted due and settled procedure before sowing cotton seed.

13. The agriculture officer was of the view that the farmer had obtained 3.70 maunds yield/crop and further about 1.75 maund per acre was expected. The plants had got extra height as compared to normal crop due to fertile soil and heavy rain during current moon soon. The crop was sown during the mid of March. Certain observations were also recorded by the EDO agriculture Sahiwal. He concluded his report with following observations

“It is therefore concluded that the yield obtained from the above said field is very less (5.50 maunds per acre) due to lack of proper guidelines to farmers and failure of variety”.

14. The report of EDO Agriculture was brought on record by the claimant. It can hardly be ignored or brushed aside. After hearing arguments advanced by both the parties, the EDO agriculture Sahiwal was

summoned in the Court. He was confronted with the contents of report Ex-P1. He explained observations made in the report in presence of Muhammad Sajjad, the representative of the firm. Both the parties could hardly deny the visible observations as well as plant mapping of disputed cotton crop. During that hearing, the parties were again provided an opportunity to affect a compromise. The defendant No. 1 to 3 and 6 were directed to compensate the claimant. Mr. Sajjad, the representative of the Company requested for an adjournment to seek guidance from the manufacturer of the seeds. On his desire, one more adjournment was granted. Today i.e 05-07-12 Mr. Sajjad and the agriculture officer Sahiwal EDO Agriculture Sahiwal present in the court informed the court that a meeting was held in the office of the EDO which was attended by both the parties but despite all efforts made, no compromise could be made/affected. However, the Company was willing to compensate the claimant but at less value which was not acceptable to the claimant. Therefore, reconciliation proceedings were dropped and case is being decided on merits.

15. Almost all facts including purchase of seeds by the claimant from the defendant No. 1 to 3 on persuasion of defendant No. 6 through defendant No. 4&5 are not denied and also that precautionary measures adopting by the claimant were visible therefore, the claimant was entitled to be compensated fairly. The claim made by the claimant finds support from report Ex-P1 and written statement of defendant No. 5 who was still working as dealer of the defendant No. 1 to 3 and 6.

16. It would be useful to add here that some documents were allowed to be placed on record under objection. There was no denial to the fact that law of evidence is not applicable in proceedings conducted by consumer court. It has its own procedure which is summary in nature. Therefore, documents, though photocopies authenticity whereof, does not appear to be doubtful, can be read in evidence thus, objections on this point are turned down.

17. The jurisdiction of this Court was questioned with assertion that sale agreement, was executed at Multan, therefore court at Multan had the jurisdiction to try the claim. This argument was devoid of any force for the reason that land where seeds were sown was situated at Sahiwal besides the fact that dealer, defendant No. 4 and 5 do work at the same place and seeds

were purchased from defendant No. 1 to 3 and 6 under the said defendants at Sahiwal.

18. In view of my findings and reasons recorded above, the claim is accepted in terms that the claimant is entitled to get Rs. 21350+7625 (as per Ex-P4/1 and 3) the amount spent on purchase of seeds and other necessary articles like fertilizers etc. The claimant has not brought on record sufficient evidence in order to prove that he had sustained damages in lacs but damage to his crop could not be denied. Had the seeds been of good quality, the claimant would have got a good crop fetching reasonable price by way of sale of the yield for his livelihood. Therefore, the approximate damages in terms of money to the tune of Rs. 2,00,000/- (two lac rupees) may be assessed for which he is also held entitled. The defendants are also burdened with cost of litigation to the tune of Rs. 10,000/-. Resultantly, the claimant is held entitled to get Rs. 2,38,975/- from the defendants No. 1 to 3 and 6. All these defendants will be responsible to pay this sum severally and jointly to the claimant within 30 days from this order.

Announced

05-07-2012

Sd/-
District & Sessions Judge/District Judge
Consumer Court Sahiwal

Certified that this order consists of seven pages, which have been dictated and signed by me.

Sd/-
District & Sessions Judge/District Judge
Consumer Court Sahiwal

