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**In the Court of Muhammad Javaid ul Hassan Chishti, District & Sessions
Judge / Presiding Officer, District Consumer Court, Multan**

**Karim Bakhsh S/o Muhammad Nawab Khan R/o Mohallah Jampur,
Vehari Road, Multan.**

(Complainant)

Versus

**1- Manzoor Surgical Company, near Prince Hotel Nishtar Road, Multan
through Proprietor.**

(Respondent)

Case No. 06/2017

Date of Institution 10.01.2017

Date of decision 11.04.2017

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

ORDER:

1. The brief facts giving rise for the disposal of this complaint are that on the complainant is a student of Entomology (M.Sc, Hons) in Department of Chemical Ecology Lab wherein a Air Hummidifier Machine valuing Rs. 50,000/- was installed but the timer of said machine was defective and due to which, the timing of machine was disturbed. It is further contended that the complainant contacted the respondent for repairing the said machine with the consent of his Incharge Prof. Dr. Binyamin and handed over the machine to the respondent in the month of July, 2016 who told that the said machine would be ready till 04.08.2016 but on 04.08.2016, the complainant paid Rs. 2500/- as repair charges and received the machine in ready position but when the complainant used the said machine in his Lab, its working was not up to the mark and timing of machine again became defective. Moreover, the complainant contacted the respondent about the working of the machine but he refused to redress the grievance of the complainant. Furthermore, due to sub-standard repairing work of the respondent, the

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complainant suffered a lot of loss including mental torture and he prayed for Rs. 10,50,000/- as compensation as well as and fee of counsel to the tune of Rs. 50,000/-.

2. On the other hand, respondent has resisted the complaint of the complainant by filing written reply by raising certain preliminary objections including that the complaint of the complainant is based on malafide and that the instant complaint is not proceed-able in this forum and liable to be dismissed.

3. The counsel for the complainant has contended that due to sub-standard repairing work of the respondent, the complainant suffered huge loss in the shape of educational loss, mental loss as well as financial loss, therefore, the complainant is entitled for compensation as prayed for.

4. On the other hand, the learned counsel for the respondent has contended that complaint of the complainant is based on malafide because the complainant filed this complaint just to blackmail the respondent. Furthermore, the complaint of the complainant is not proceed-able and maintainable being time-barred.

5. Arguments heard, record perused.

6. The perusal of record reveals that the complaint handed over the machine in question to the respondent in the month of July, 2016 and the same has been received on 04.08.2016 but the working of the machine was not up to the mark and the same has been created problems, therefore, the cause of action arose / accrued to the complainant on 04.08.2016 and the complainant was required to file his complaint within thirty days of arising of cause of action but the complaint sent the legal notice to the respondent

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Kareem Bakhsh Vs Manzoor Surgical Company.

on 01.10.2016 and filed his complaint on 10.01.2017 after expiry of limitation whereas a complaint is to be filed within thirty days of the accrual of cause of action as per section 28(4) of the Punjab Consumer Protection Act, 2005, for ready reference, the same is reproduced as under:

Section 28 (4) of the Punjab Consumer Protection Act, 2005.

“A claim by the consumer or the Authority shall be filed within thirty days of the arising of the cause of action. A claim to be filed after thirty days within such time as it may allow if it is satisfied that there was sufficient cause for not filing of complaint within the specified period. Provided further that such extension shall not be allowed beyond a period of sixty days from the expiry of the warranty or guarantee period specified by the manufacturer or service provider and if no period is specified one year from the date of purchase of the products or providing of services:

In view of the aforementioned section it was necessary for the complainant to file his complaint within thirty days of arising of cause of action that was 04.08.2016 but the complainant sent the legal notice to the respondent on 01.10.2016 and filed his complaint on 10.01.2017 after expiry of thirty days of arising of cause of action as required under the law. Although the period is extendable but for that purpose, the complainant has to satisfy the court by filing a separate petition that there was sufficient cause for not filing his complaint within the specified period provided by the statute. Whereas in present case, the complainant has not filed any such petition for the extension of time as discussed above. Keeping in view the sub section (4) of section 28 of the Punjab Consumer Protection Act, 2005,

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the complaint in hand is time barred. Reliance is placed on the case law cited in 2012 YLR 1830 Lahore as well as PLJ 2014 Lahore, Multan Bench, Multan 170. In view of the above mentioned facts and circumstances, the complaint of the claimant is hereby dismissed being time-barred. File be consigned to record room after its due completion.

**Announced:
11.04.2017**

**(Muhammad Javaid ul Hassan Chishti)
District & Sessions Judge/Presiding Officer,
District Consumer Court,
Multan.**