

IN THE COURT OF JUDGE BAKHT FAKHAR BAHZAD,
DISTRICT & SESSIONS JUDGE/JUDGE DISTRICT CONSUMER
Court,
GUJRAT

Case No.93-2016
MISC. No. 3-18


Title: Sheikh Shahid Abnbas Vs. Mehar Muhammad Khalid

Date of institution	07.02.2018
Date of decision	04.04.2018
Petitioner by	Mehar Muhammad Khalid
Respondent	Sheikh Shahid Abbas
Counsel petitioner	Malik Muhammad Rasheed Khokhar Advocate
Counsel respondent	Ch. Rizwan Aslam Warriach Advocate

ORDER:


If a case ever exposed the maladroitness of a litigant in abuse of the process of law and the Court, the present one is a resplendent example, the factual narration to which I shall advert to immediately, herein after would impliedly show that the petitioner has endeavored very hard to master the art of adjournment and on occasions having been successful become quite ambitious. And the ambitions has no bounds, it could reach the everstine heights or put it differently, could engulf the entire pacific ocean.

2. The factual matrix expose as is envicible from the impugned order, the respondent filed the complaint on 29.11.2016, it is worthy to note here that for evidence, the witnesses were constrained to come to Court on many occasions, thereafter the petitioner filed an interlocutory application under Order I Rule 10 of CPC. The matter stood adjourned. As the facts would further unfold, the petitioner introduced another irrelevant person. Mr. Sarmad Sajid by filing the application under Order I Rule 10 of CPC. Due to the


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filing of the above referred application, the proceedings in the Court got arrested as if "TIME" has been arrested.

3. Despite filing so many applications, the petitioner remained indefatigable with obsessed consistency and again filed applications. This Court after deciding the above said applications hoping that all his owe would be over and the disease of adjournment affecting the marrows of litigation would be kept at bay allowed the request of adjournment after dismissing the application. I must state here that the Court was in total illusion, for the petitioner had some other design in mind. I am prompted to say so, had the story ended there, possibility for the time being the phenomena of this Court would have been correct but it was not to be so. In spite of granting several adjournments for recording the evidence. The petitioner disconnected himself from the proceedings of the Court and the ordeal of the respondent continued. In the interest of justice, the evidence of the claimant was recorded on 23.10.2017 on that day, the petitioner did not appear before the Court to cross examine the said PWs, however, no adverse order was passed against him and the matter was adjourned for 30.10.2017 for evidence but unluckily on that day when all the witnesses were again present before the Court neither the petitioner nor his counsel appeared, the Court was constrained to proceed ex parte against the petitioner on 30.10.2017 and the matter was fixed for producing the documentary evidence on 31.10.2017. The respondent produced the documentary evidence, notwithstanding the unwarranted indulgence shown, the petitioner remained adamant and thought it otherwise not to participate in the proceedings. Ultimately, the complaint was adjourned for final ex parte arguments but due to unavoidable


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circumstances on four dates the arguments could not be heard and during this intervening period the petitioner did not bother to appear before the Court to participate in the proceedings.

4. I have narrated the facts in great details so that I have said in the beginning with regret and with regard to the abuse of the process of Court get fortified. With the aforesaid hill journey faced by the respondent, now I shall presently proceed to adumbrate the necessitous. Facts in brief on 09.01.2018 this Court passed the final order under Section 31 of the Punjab Consumer Protection Act, 2005 and now the petitioner has approached this Court by filing the application for setting aside the order dated 09.01.2018. On application, after hearing the preliminary arguments the pre-admission notice was issued to the respondent and the counsel for the petitioner was confronted to explain how the instant petition is maintainable as against the final order passed under Section 31 of the Act. Appeal lies under Section 33 read with Rule 18 of Punjab Consumer Protection Rules, 2009. The learned counsel for the petitioner to support his arguments cited the following case laws

1. 2001 CLC, 1976
2. 2015 CLC, 727
3. PLD 1981 SC, 21

And prayed for setting aside the impugned order.

5. On the other hand, learned counsel for the responded appeared before the Court and opposed the application with tooth and nails, maintaining that the petitioner should file the appeal before the Hon'ble Lahore High Court, Lahore as required under Section 33 of the Act and under Rule 18..

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6. I have heard the arguments advanced by both the counsel for the parties at length and has also given my anxious considerations on the facts, circumstances and the law.

7. In the case in hand, as I have stated herein before that the examination in chief was recorded, and the matter was adjourned several times. The petitioner due to reasons best known to him did not appear before the Court, however, no adverse order was passed against the petitioner on many occasions in order to give the fair opportunity to the parties so that the lis before the Court should be decided on merit. Regardless of the allowance—extended, the petitioner stood embedded on his adamantine platform and did not appear before the Court as if it was his right to seek adjournment on any ground whatsoever and on any circumstances even at the cost of his absence. The non-concern of the petitioner shown towards the proceedings of the Court is absolutely manifest. The disregard shown to the Court is also visible from the marathon of interim orders.

8. In the case in hand, it can indubitably be stated that the petitioner has acted in manner to cause colossal insult to justice and to the concept of speedy disposal. Now adverting to the legal position, the impugned order has been passed under Section 31 of the Act and the Section 33 of the Act and Rule 18 provides as under.
Sec.33. **Appeal..** Any person aggrieved by any final order of the Consumer Court may file an appeal in the Lahore High Court, Lahore within 30-days of such order.

Rule.18. **Appeal against the order of the Court:-** (1) "Any person aggrieved from a final order of the Court may, within thirty

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days of the order, file an appeal in the Lahore High Court in accordance with the Rules of Procedure of the Lahore High Court".

9. In view of the above said factual and legal discussion I am constrained to say that virus of prolonging the litigation should be checked and controlled by refusing to entertain such like applications to discourage the litigation, so that the respondent who has succeeded in getting the order in his favour after hectic struggles should get its fruits. In view of above said analysis I decline to entertain the petition and the same is hereby dismissed being sans legal substratum.

10. Under Order Rule 25 of the Punjab Consumer Protection Rules, 2009, the order be sent to the official website of Punjab Consumer Protection Council, Lahore for its publication to provide easy access of information to the concerned parties and for Public at Large.

11. Copy of this order be communicated to the parties free of charge as required under rule 17 of Punjab consumer Protection Rule 2009. File be consigned to record room after its due completion.

Announced
04.04.2018


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Certificate:-

It is certified that this order consists of five pages and each page has been dictated, read, corrected and signed by me.

Announced
04.04.2018


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