

In the Court of Tariq Masood Bhatti, District & Sessions
Judge/Presiding Officer, District Consumer Court, Bahawalpur

Mohammad Munir Shahzad Vs Service Shoes

Case No. 3516/14

Date of Institution: 27/10/14

Date of Decision: 9/2/15

ORDER:

Contention of claimant in brief is that he purchased a “Chapel” from respondent on 25.7.14 subject to receipt for consideration of Rs.1500/-. It was mentioned upon the receipt that in case of any defect, claim can be made within seven days of its purchase. Sole of the shoe broke on 5th day of purchase at which claim was made to the company at which they assured that new shoe will be claimed from the company, so contact after some days. Claimant visited the shop of respondents on so many times but respondents refused to issue new shoe rather stressed that they mend previous one which claimant refused.

Due legal notice was served which was never replied, hence the petition.

Respondents contested the petition on legal and factual grounds submitting that claimant brought the shoe at their shop after two months of its purchase at which the same was mended and handed over to the claimant; the instant petition is totally false and fabricated and has been moved just as a blackmailing tactics, merits dismissal.

Both the parties led their “Pro and Contra” evidence in support of their versions in shape of their affidavits.

Arguments of Malik Mohammad Ashraf Gadden Advocate learned counsel for claimant and that of Mohammad Ashraf respondent in person heard, record perused.

From perusal of record it is found that as per receipt so annexed with the petition, shoe was purchased on 25.7.14 and according to the claim made in petition, shoe broke just after utility of five days, meaning thereby, shoe has been broken since 30.7.14.

Now, as per provision of Punjab Consumer Protection Act, 2005, notice was to be issued within fifteen days of arising of cause of action and claim was to be filed within one month from the date of arising of cause of action but in this case, alleged notice has been issued on 30.9.14 but as per contents of petition, it was to be issued till 14.8.2014.

As per law, claim was to be filed in this court within one month of arising of cause of action, so it was to be filed till 30.8.14 but the claim in this court has been filed on 27.10.14, so in the given situation, claim appears to be barred by time.

As per receipt, claim was to be made within seven days of its purchase to the shopkeeper/franchise but in this case, claim was made after expiry of almost two months from date of purchase which even otherwise was not sustainable.

It is noteworthy that as per affidavits so annexed by the respondent, shoe has been mended even after receipt of claim after expiry of almost two months, so it means that courtesy has already been shown by the respondent, so no further claim was permissible.

In the light of above view and discussion, petition is found not sustainable, stands dismissed. File be consigned.

Announced:
9.2.2015

(Tariq Masood Bhatti)
District & Sessions Judge/Presiding Officer
Consumer Court, Bahawalpur