

IN THE COURT OF JUDGE **SARDAR MUHAMMAD AKRAM KHAN**
DISTRICT & SESSIONS JUDGE /PRESIDING OFFICER,
DISTRICT CONSUMER COURT, LAYYAH.

Application No.03 of 2017.

Date of Institution:11-07-2016.

Date of Decision: 00-10-2017.

Muhammad Hafeez Ullah Baig son of Rasheed Ahmad Caste Mughal,
resident of Chak No.96/TDA, Tehsil Karor District Layyah.

(Petitioner/claimant/complainant)

Versus

1. **Haji Bashir Sajid** and proprietor Kisan Ghar Karor Raod Fatehpur, Tehsil
Karor District Layyah

2. **Chief Executive Warbel Pvt. Ltd.** Suit No.18, 3rd Floor Arcade New Garden
Town Lahore.

(Respondents)

APPLICATION FOR INITIATION OF
PROCEEDINGS AGAINST THE RESPONDENTS
AND RECOVERY OF DAMAGES/
COMPENSATION RS.3,50,000/-.

JUDGMENT.

It is pertinent to mention here that initially, this petition was filed by the petitioner/claimant/complainant against the respondent Haji Bashir Sajid but during the pendency of this petition, an application for impleading the respondent Chief Executive Warbel Pvt. Ltd. was filed which was ultimately accepted and the Chief Executive Warbel Pvt. Ltd. was arrayed as respondent No.2 through amended petition.

2. Brief facts of this petition are that the petitioner/claimant/complainant is permanent resident of Tehsil Karor District Layyah and on 15-04-2016, he cultivated in his land measuring one acre Munghi crops in which weeds grown-up. As the petitioner/claimant/complainant had to further cultivate his few acres of land and there was

possibility of weeds, on 03-05-2016, the petitioner/claimant/complainant sent a notice to Sajid but inadvertently date was mentioned as 03-06-2016 instead of 03-05-2016. The petitioner/claimant/complainant contacted telephonically with the respondent Haji Sajid Bashir who advised for destroying the weeds. Upon his advice, petitioner/claimant/complainant purchased three agri-chemicals Terror for demolishing the weeds. One bottle was purchased from Ghulam Hussain son of Allah Ditta resident of Chak No.99/TDA through Kisan Ghar Fatehpur. In this regard, the affidavit of said Ghulam Hussain is annexed with this petition. While remaining two bottles were purchased directly from the respondent against a receipt of purchase which is also annexed with this petition. The petitioner/claimant/complainant used above-said three bottles of agri-chemical terror by spray but the weeds was not destroyed due to substandard chemical. On 12-06-2016, Field Officer from Kisan Ghar himself visited the spot in the presence of PWs Ghulam Hussain and Muhammad Ashraf and admitted this fact that the agri-chemicals is substandard. That on 13-06-2016, I sent a notice to the proprietor Kisan Ghar through registered envelope who stated for compensation till 15-06-2016. Thereafter, on 18-06-2016, Ahsan-ul-Haq Sales officer Field Staff and Khalid Counter Clerk again inspected the crops and admitted this fact and asked that the weeds will be destroyed within one/two days but on 21-06-2016, the field officer refused to do so and also extended threats of dire consequences. That respondent has been asked time and again for the compensation occurred due to sub-standard agri-chemicals terror spray but he played dilly dally and ultimately refused to do so. Through this petition, the petitioner/claimant/complainant has prayed that petition in hand be accepted, decree regarding recovery of Rs.3,50,000/- as

compensation be passed in his favour and legal action be also initiated against the respondents.

3. The petitioner/claimant/complainant's suit was contested by the respondents by submitting written reply wherein the respondents raised some preliminary objections. On merits, the respondents negated the petitioner/claimant/complainant's assertion that the petitioner/claimant/complainant has filed false and fictitious petition just to harass and black mail the respondents. The petitioner/claimant/complainant had not properly used the said chemical due to his unawareness and non-experience, however, the said agri-chemical terror prepared by the company according to the standard and thousands bottles of said terror have been sold but no any complaint was received. Lastly, respondents prayed for the dismissal of instant petition with special costs.

4. Pre-trial reconciliation failed due to adamant attitude of the parties.

5. After failure of pre-trial reconciliation, both the parties were directed to lead their respective evidence. The petitioner/claimant/complainant himself appeared before the court as AW-1 and tendered his affidavit as Exh.C-1. He further produced Muhammad Ashraf s/o Abdul Aziz and Ghulam Hussain s/o Allah Ditta as PW-2 & PW-3 respectively. Both these witnesses also tendered their respective affidavits Exh.C-2 & Exh.C-3 in support of petitioner/claimant/complainant's version. In his documentary evidence, petitioner/claimant/complainant tendered certain documents which have been placed on record from Exh.P-5 to Exh.P-8 and Mark-A & Mark-B. Conversely, Muhammad Bashir Sajjad, the respondent No.1 stepped into witnesses box as RW-1. This witness tendered his affidavit as Exh.R-1. Tanveer Akhtar s/o Rasheed Ahmad and Noman Liaquat s/o Liaquat Ali

Shahid appeared as RW-2 & RW-3 respectively. Both these witnesses also tendered their respective affidavits as Exh.R-2 & Exh.R-3.

6. Learned counsel the petitioner/claimant/complainant has reiterated the contents of petition/application and has prayed for the acceptance of same while arguing that the petitioner/claimant/complainant has succeeded to prove his case through the evidence produced by him; whereas the learned counsel for the respondents has vehemently opposed the contention raised by the learned counsel for the petitioner/claimant/complainant and prayed for the dismissal of the same while arguing that the petitioner/claimant/complainant has failed to prove his case and as per preponderance of the evidence produced by both the side. The respondents have succeeded to prove their case.

7. I have given my anxious consideration to the arguments advanced by learned counsel for both the parties and have gone through the record carefully.

8.

Announced.

00-10-2017.

(Sardar Muhammad Akram khan)

District & Sessions judge/Presiding Officer,
District Consumer Court, Layyah.

Certified that this judgment consists of seven (7)
pages, each of which has been dictated, read, corrected & signed by me.

Dated:00-10-2017.

(Sardar Muhammad Akram khan)

District & Sessions judge/Presiding Officer,
District Consumer Court, Layyah.