

**In The Court Of Syed Maruf Ahmedali Presiding Officer  
District & Sessions Judge District Consumer Court  
Lahore.**

**Muhammad Siddiq V/S Waves Cool**

**Order.**

The Complainant Muhammad Siddiq has filed the above titled Complaint against the Respondents for recovery of damages amounting to Rs. 150000/- under the Punjab Consumer Protection Act 2005.

2           Brief facts, according to the Complaint are that the Complainant on 16.06.2006 purchased a Deep Freezer of Waves Cool Company from Respondent No.2 the authorized dealer of Respondent No.1 for an amount of Rs. 22500/- It is alleged that after about two months the Deep Freezer went out of order. He lodged a Complaint on 07.02.2007 .The Technician of Respondent No.1 visited the house of the Complainant and stated that the Compressor of the Deep Freezer has ceased and same be taken to their Cool Care Center at Shalimar Link Road Lahore. After about one week the Compressor was replaced and the Complainant brought the Deep Freezer to his house. When the Deep Freezer was operated it did not work. On the second day the Complainant again lodged a Complaint with the Cool Care Center, that the Compressor again had ceased to work. The Deep Freezer was again taken to the Cool Care Center which was retained by the Respondent Center for about five months and was repaired. The Deep Freezer was again brought back to the house of the Complainant on 02.10.2007. The Deep Freezer was again operated and it continued on the same speed and did not trip. The Complainant again lodged a Complaint with the Respondent Company and was told that an amount of Rs. 10000/12000 shall be incurred which will be borne by the Complainant. Thereafter the Complainant issued a Legal Notice to the Respondent Company but no reply was received .Hence this Complaint.

3               The Respondents were summoned who contested the claim through their Written Statement. Defence of Respondent No.2 was struck off on 10.09.2008.The Complainant in order to prove his case appeared in the Witness Box as PW-1 .On the other hand RW-1 Nadeem Butt appeared on behalf of Respondent No.1 Both the parties closed their evidence on 11.10.2008.

4               It is contended by the counsel for the complainant that it has been proved through evidence that the Deep Freezer delivered to the Complainant was faulty as twice its Compressor was replaced by the Respondent Company and even then it did not work. .He has further contended that there is a manufacturing defect in the Deep Freezer and the Complainant had suffered a loss .He be allowed damages and the price of the Deep Freezer be refunded.

5               On the other hand, the counsel for the Respondent has contended that the Complaint is barred by time. The Complainant has failed to prove his case. Twice the Compressor of the Deep Freezer was replaced by the Respondent free of costs and now Deep Freezer is working and the Deep Freezer could not be replaced nor its price can be refunded as its warranty had expired. He has prayed that this Complaint be dismissed.

6               After hearing the arguments of both the learned counsel for the Parties and perusing the record. According to PW-1 Muhammad Siddiq the Complainant, twice the Compressor of the Deep Freezer was replaced by the Respondent Company free of costs, on 07.02.2007 and 09.04.2007.There after the Deep Freezer again created the same problem. He again visited the Factory of Respondent No.1 at Hanjarwal .Where Nadeem Butt (Manager) of Respondent Company told him that expenses of Rs. 12000/- shall be incurred for solving the problem.

7                On the other hand RW-1 Nadeem Butt who has appeared on behalf of the Respondent Company has admitted that the warranty for the Compressor of the Deep Freezer is two years, according to the Warranty Booklet Ex-R/1. It is also an admitted fact that the Compressor of the Deep Freezer has been replaced twice free of costs by the Respondent Company and now for the third time if the Compressor is to be replaced, the Complainant has to pay its charges. He has denied the receiving of the Legal Notice, which is against the record.

8                After scanning the evidence of both the parties .The Instruction Manual Ex-R/1 which has been placed on record by the Respondent, proves that the warranty period for a Deep Freezer is two years which is also admitted by RW-1.The first Complaint lodged by the Complainant was on 07.02.2007 and second Complaint was lodged on 09.04.2007 and the third Complaint was lodged on 25.04.2008. This fact is proved by the receipts issued by the Respondent Company to the Complainant. Admittedly the Deep Freezer was purchased by the Complainant on 16.06.2007 as the warranty period for the Deep Freezer is two years therefore, the Complainant under the law can file a Complaint within the Warranty period i.e. two years. This Complaint was filed on 28.06.2008. According to Proviso 2 of Section 28 of the Punjab Consumer Protection Act 2005 “Court can extend time up to sixty days from the expiry of the warranty if sufficient cause is shown”. The Complainant has a recurring cause of action. Hence this Complaint is well within time. The replacement of the Compressor twice by the Respondent Company proves that there is a manufacturing defect in the Deep Freezer; therefore, time and again the Compressor of the Deep Freezer ceases to work. Now again Nadeem Butt Manager of Respondent No. had demanded Rs. 8000/- for the Compressor and Rs. 4000/- as transportation charges. This portion of evidence has not been rebutted during cross examination on behalf of the Respondent, which proves that the Compressor of the Deep Freezer has for the third time

ceased to work. However the Complainant has failed to prove any damages as envisaged in Section 10 of the Act *ibid*. Copy of the Legal Notice and its Postal receipt is already on the file.

9                Leading question pertaining to the Legal Notice is not fatal to the case of the Respondent. The Court under its inherent powers can call the Assistant Director Legal District Consumer Protection Council for its assistance.

In view of the afore said reasons, this Complaint is accepted and it is directed that the Respondent shall refund the price of the Deep Freezer amounting to Rs. 22500/- and shall also pay costs amounting to Rs. 5000/- within 10 days from the date of this Order. .The Respondents are further directed to remove the Deep Freezer from the premises of the Complainant, after payment.

File be consigned to record room after due completion.

**Announced**  
**28.10.2008**

**Presiding Officer**  
**District Consumer Court**  
**Lahore.**

**Certificate**

Certified that this Order consist of Five (5) pages which have been dictated, read, corrected and signed by me.

**Announced**  
**28.10.2008**

**Presiding Officer**  
**District Consumer Court**  
**Lahore.**