

**IN THE COURT OF SOHAIB AHMED RUMI DISTRICT & SESSIONS**  
**JUDGE/PRESIDING OFFICER, DISTRICT CONSUMER COURT,**  
**SARGODHA**

**Case No.** 79/2012  
**Date of Institution.** 22.06.2012  
**Date of decision** 13.11.2012

***Muhammad Zameer s/o Dost Muhammad***  
*PindiKootBhera, District Sargodha.*  
*(Complainant)*

***Versus***  
***Chief Executive Solex Company & Others.***  
*(Respondents)*

**J U D G M E N T**  
**13.11.2012**

*Case of the complainant is that he purchased Widicide "Clover" for elimination of grass etc; from the sugarcane crop cultivated by him in 17 acres of land, from respondent No.3 Zubair Traders after consultation with sales officer of the manufacturing company, the respondent No.1 who prescribed the same which produced hazardous effects on the sugarcane crop, resultantly the whole sugarcane crop was damaged. The local officer of Agriculture Department was also informed about the situation. According to the complainant he suffered loss of Rs, 100000/- due to crop damage. Respondent No.1 to 3, M/s Chief Executive SolexChemicals, Syed Mohsin Shah Sales Officer Solex Company and Zuabir Traders, respectively, appeared and by way of submitting the reply contended that the Widicide in question manufactured by respondent No.1 was purchased and used by the complainant on his sugarcanes crop but it did not cause any kind of damage because the product in question in no case is substandard as the same was got analyzed by the officer of the Agriculture Department from the concerned laboratory which issued positive report about efficacy and standard of the medicine.*

2           Both the parties were asked to lead their respective evidence. Complainant appeared as Pw-1 and in support of his version produced Muhammad Ijaz Pw-2, Ahmed Khan Pw-3 and also produced documentary evidence Exp-A-1 to A-10. Respondent No.3 appeared as Rw-4 and in support of his version produced Rab Nawaz, Agriculture Officer as Rw-1, Ghulam Murtaza Shah, Deputy District Officer Agriculture as Rw-2, Irfan-ul-Haq as Rw-3 and Syed Mohsin Abbas Shah as Rw-5. Respondent produced documentary evidence Exp-R1 to Exp-R14 alongwith documents Mark-A and Mark-B.

3           Arguments heard.

4           Case of the complainant is that Syed Mohsin Shah respondent No.2 being representative of respondent No.1 and 3 gave advice to the complainant for use of Widicide "Clover" for spray on the Sugarcane Crop which caused damage as it was not recommended for this crop. Sale and purchase of Widicide "Clover" between the parties is admitted. The question to be decided in this case is that whether a wrong medicine was suggested by respondent No.2 and as to whether it caused any kind of damage to the sugarcane crop if so to what extent it damaged the sugarcane crop. I have gone through the evidence of the parties minutely. It is established on the record that "Clover" Widicide was suggested by respondent No.2 to the complainant to use on the sugarcane crop. During the cross examination Mohsin Abbas Shah respondent No.2 while appearing as Rw-5 voluntarily said that "Clover" can be used for pointed leaf crop and can also be used in sugarcane and maize crops as well. At the same time respondent No.2 further explained that "Clover" Widicide is recommended for Paddy field. I have examined the bottle/container of "Clover" which has printed instructions around the bottle whereby it has been recommended only for paddy crop meaning

thereby that the “Clover” is a single crop Widicide and not the multi crop Widicide. Respondent No.2 at his own analogy had drawn inference that the “Clover” is multi crop Widicide which is not correct and this very fact is proved that he had recommended the same to the complainant for its use at sugarcane crop.

5           Now it is to be seen that application of “Clover” on the sugarcane crop field by the complainant has damaged the crop? Accordingly to the complainant he has applied “Clover” spray on 17 Acres sugarcane crop. According to the record “Clover” is a genuine product and not a defective product and if it is used as per original recommendation and instructions of the manufacturer on paddy field it has no side effects. Factually “Clover” in this case was applied on sugarcane crop which is even not recommended by the manufacture. According to report of Agriculture Department R.3, two acres of sugarcane crop was found badly affected whereas the remaining 15 Acres of sugarcane crop was in good condition. Question may arise that if “Clover” Widicide was applied on 17 acres of land why it damaged only 2 Acres of Crop. According to exhibit R.3 lack of irrigation and attack of “top borer” was found in these two acres of crop. No doubt multiple factors like use of fertilizer at proper time, the other environmental factors also contribute in up bringing of a crop. Pictorial communication as brought on record reflects minor side effects on remaining 15 Acres sugarcane crop by “Clover”. In this case a wrong medicine was suggested by respondent No.2 being an employee of respondent 1 & 3. Two Acres of sugarcane crop was totally damaged. Although the lack of irrigation and attack of borer may also contribute in the destruction of sugarcane crop but the very fact that a non suitable medicine which was un-wanted and not required was used at the advice of respondent No.2 whose foremost and ultimate target is to enhance the

sale of the company's product by any means. As average produce of sugarcane crop per acre in this area is 700 Mund which is calculated at the rate of Rs, 170/- per Mund equal to Rs, 119000/-. Two acres crop has been found fully damaged price of which comes to Rs, 2,38000/-. In this season, overall decrease in the rain fall in Sargodha Region has been recorded and it is for this reason that I have calculated the average produce per acre on lower side. However, taking into account the attack of borer on the crop of these 2 acres of land, 10% deduction is allowed to the contributing factor. From the statement of the witnesses 10% less production by side effects of the medicine can be calculated over remaining 15 Acres of crop which as per formula applied above is calculated 1050 Mund price of which is Rs, 178500/-. At the same ratio deduction is allowed on 15 acres produce which come to Rs, 23850/-. Total of this damage is described below for clarity:-

**Formula = One Acre Average Produce = 70Mund @ 170 Per Mund 2 Acre produce 140 Mund @ 170 per Mund= Rs, 238000/-**  
**Attribution to Borer Attack 10% Deduction -23800/-**  
**Total Rs, 214200/-**

**Formula = 10% decrease in production per Acre = 70 Mund @170/- per Mund Rs, 11900/-**  
**Expected total produce 15 Acre x 700= 10500 Mund**  
**Due to "Clover" attack decrease @ 10% = 1050 Mund @ 170/- per Mund = Rs.178500/-**  
**Attribution to Borer Attack 10% deduction Rs, 17850/-**  
**Total Rs, 160650/-**  
**Amount of 2 Acrs loss .....Rs. 214200/-**  
**Amount of loss of 15 Acres ..... Rs. 160650/-**  
**Grand Total.....Rs. 378450/-**

6 In the circumstances claim of the complainant is accepted in the above said terms. It is the case of deficiency of services whereby respondent No.2 unduly rendered the advice for using the medicine Widicide in the sugarcane crop which was neither required nor recommended. Respondent No.1 & 3 are directly responsible for the conduct of their representative respondent No.2. All are held responsible

*for the damage suffered by the complainant. Therefore, respondent No.1 Zubair Traders, respondent No.2 Syed Mohsin Shah and respondent No.3 are liable for the damage caused to the sugarcane crop of the complainant and are directed to pay Rs, 378450/- along with Rs, 1550/- as legal expenses total Rs, 3,80000/- to the complainant. The complaint is disposed off accordingly. File be consigned to record room after due completion.*

**Announced**  
**13.11.2012**

*Sd/-*  
**Presiding Officer,  
District Consumer Court,  
Sargodha.**