

**In the Court of Judge Mahar Tahir Nawaz Khan  
District & Sessions Judge/ Presiding Officer  
Consumer Court Districts Sheikhupura, Nankana-Sahib, Kasur &  
Lahore.**

Complaint No	817/14
Date of institution	10-12-2014
Date of decision.	23-01-2018

**Muhammad Ahsan Khurshid s/o Khurshid Ahmad r/o House No. 214/2-CII, College Road, Near Butt Chowk, Township, Lahore.**

**Complainant**

**V/S**

**Afzal Installment Center, Al-Madina Road, Township, Lahore.**

**Respondent**

**COMPLAINT UNDER SECTION 25 OF THE PUNJAB CONSUMER PROTECTION ACT, 2005 FOR THE RECOVERY OF PRINCIPAL AMOUNT ALONGWITH DAMAGES TOATL FEE RS. 88,280/- FROM THE RESPONDENT ON ACCOUNT OF DEFECTIVE AND FAULTY SERVICES.**

**Order.**

1. Briefly stated facts of the complaint are that complainant purchased a refrigerator of “Haier” Company having Model No. 380-M against the consideration of Rs. 56,620/- on 08-07-2014 on installment basis. complainant allegedly Paid Rs. 10,000/- to respondent as advance money and a guarantee cheque of Rs. 50,000/- was also issued to the respondent. Complainant paid two installments of Rs. 8280/- each. Complainant alleged that after 10 days of the said purchase refrigerator became out of order and could not work properly. Complainant contacted the respondent to return the same, but the respondent became angry and refused to replace the refrigerator in question. Complainant returned the said refrigerator at his own expenses to the concerned Company which returned the refrigerator to the respondent instead of complainant but now the respondent is reluctant to return the same hence the present complaint. Complainant prayed this court to direct the respondent to pay him Rs. 88,280/- to meet the ends of justice.

2. Respondent was served through courier service but no body appeared on his behalf. Moreover in the interest of justice, respondent was served through substituted service published in Daily “Dunia” but no one appeared on behalf of respondent, so he was proceeded against ex-party on 28-05-2015. After closing the ex-parte evidence of the complainant, respondent moved an application for setting aside of ex-parte order which was accepted vide order dated 29-06-2016 subject to payment of cost of Rs. 2000/- which was not paid by him on next date, for which his right of filing of written statement was struck off. Later on respondent paid the cost and cross examined the complainant on 23-10-2017 with the permission to this Court.

3. Complainant filed his affidavit as Ex-P/1 as examination in chief. He also produced copy of legal notice Mark-P/A, its dispatch receipt Ex-P/2 and payment receipt Ex-P/3 to Ex-P/4 and closed his evidence.

4. On the other hand respondent's right to file written statement was struck off due to lapse of the period of filing of written statement but the respondent, with permission to the court cross examined the Pw.

5. Arguments heard. Record perused.

6. According to complaint, complainant purchased a refrigerator of “Haier” Company having Model No. 380-M against the consideration of Rs. 56,620/- on 08-07-2014 on installment basis. Complainant allegedly Paid Rs. 10,000/- to respondent as advance money and a guarantee cheque of Rs. 50,000/- was also issued to the respondent. Complainant paid two installments of Rs. 8280/- each, but after 10 days of the said purchase, refrigerator became out of order and could not work properly. It means that disputed refrigerator became out of order on 18-07-2014. It was mentioned in the Para No. 8 of the complaint that legal notice was sent to respondent but no date was mentioned when it was issued. Copy of legal notice available on record as Mark-P/A bears the date of 17-11-2014 while the instant complaint was filed on 10-12-2014. Section 28 (4) of the Punjab Consumer Protection Act 2005 requires that complaint shall be filed within

thirty days of the arising of the cause of action. According to proviso clause of Section 28 of the Punjab Consumer Protection Act 2005, consumer court can extend this period on showing of sufficient cause but this extension shall not be allowed beyond a period of sixty days from the expiry of warranty or guarantee. Complainant did not move any application showing the sufficient cause not to file the instant complaint within stipulated period. This court at its own cannot condone any time barred period. So the complaint was filed on 10-12-2014, which is clearly time barred.

6. Another important point involve in the complaint is that complainant have only paid two installments to respondent so total consideration has not been paid by the complainant to the respondent.

7. Complainant himself admitted that he purchased refrigerator of “Haier” Company. The said company, which is the manufacturer of the said product /item is not impleaded as party to the lis. In the absence of manufacturer, no effective order can be passed.

8. In the sequence of the above said discussion, complaint is not maintainable being time barred and non impleading of manufacturer of the disputed product, thus is dismissed.

9. File be consigned to the record book after its due completion.

**Announced**  
**23-01-2018**

**Judge Tahir Nawaz Khan**  
**D&SJ/Presiding Officer**  
**District Consumer Court LHR.**

It is certified that this Order consists of three pages which have been dictated, corrected and signed by me.

**Announced**  
**23-01-2018**

**Presiding Officer**  
**D&SJ/P.O, DCC, LHR**