

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

Complaint No	603/2015
Date of institution	09-12-2015
Date of decision.	30-01-2018

**MR. IFTIKHAR UD DIN S/O ZIA UD DIN R/O ALVI  
ELECTRIC STORE , 3-BEADON RTOAD LAHORE..**

**Complainant**

V/S

- 1. AGM BEEPCYCLE THROUGH ITS CHAIRMAN,  
BEADON ROAD, LAHORE.**
- 2. SALES EXECTIVE AGM BEEPCYCLE BATTERIES, 2  
BEADON ROAD, LAHORE.**

**Respondents**

**COMPLAINT UNDER SECTION 25 OF THE PUNJAB  
CONSUMER PROTECTION ACT, 2005 FOR THE CLAIM OF  
DAMAGES RS. 1,000,000/-**

**Order.**

1. The case of the complainant is that he purchased two batteries 100 AMP each bearing Nos. 585554, 585555 against an amount of Rs. 34000/-on 14-01-2015 from franchise of respondent Company namely AGM Beepcycle Batteries. Respondent No. 2 received the amount from the complainant and gave a receipt with warranty for life time as mentioned in it. Complainant alleged that respondents mentioned in the receipt that if the said batteries would not work properly, the same would be exchanged within 15 months after the date of purchase. Complainant alleged that batteries were not working properly for which he came to company office in month of July 2015 and complained about the defect that the cells of the batteries were also found to be substandard. Respondents ensured the complainant that with the passage of time batteries would improve, but not. Complainant allegedly made complaint on August 2015 and claimed the replacement of the said defective batteries, but the respondent did

not replace the said defective batteries without any reason. Complainant time and again visited the respondent company and asked for replacement of batteries but the respondent company delaying the matter on one pretext or the other. Complainant last time visited the respondent company on 01-09-2015 but the respondent company flatly refused to replace the said defective batteries. Complainant served a legal notice to respondent on 05-09-2015 but of no avail, hence the present complaint.

2. Respondents were served. They submitted their written statement. They resisted the complaint on law as well as factual grounds. They contended that complainant has suppressed the material facts from this court: complainant has filed the instant complaint just to pressurize, humiliate and harass the respondents: respondents in their written statement admitted the purchase of disputed batteries and issuance of legal notice but rest of the complaint /version of the complainant denied by them. Respondents further contended that no cause of action accrued to complainant against the respondents. Respondents prayed this court to dismiss the complaint with cost.

3. On 06-12-2017 when the complaint was fixed for cross examination upon complainant, case was called thrice but no body appeared on the behalf of respondent to cross examine the complainant evidence, hence the respondents were proceeded against ex-parte on that day.

4. Complainant on 15-11-2017 appeared in witness box as Pw-1 and produced his affidavit Ex-P/1 as his examination in chief. He further produced payment receipt Ex-P/2, warranty cards Ex-P/3 to P/4, copy of legal notice Mark P/A and its dispatch receipt Ex-P5.

5. Ex-parte arguments heard. Record perused.

6. Complainant submitted that he purchased the disputed batteries from the respondent Company on 14-01-2015. He mentioned that in the month of July 2015 he complained the respondent first time for the

defect of the batteries but the respondent told that with the passage of time said batteries would improve but that defect could not be removed so ultimately complainant issued legal notice to respondents on 05-09-2015 vide dispatch receipt Ex-P/5 while filed the instant complaint on 09-12-2015. Section 28 (3) of the Punjab Consumer Protection 2005 clearly disclose that claim shall be filed within thirty days of the arising of the cause of action. This complaint should have been filed in the month of August, 2015, as per own version of the complainant. Another aspect of the complaint is that complainant issued legal notice to the respondents on 05-09-2015 while the instant complaint was filed on 09-12-2015. It means that this complaint has been filed after 3 months and 4 days from issuance of legal notice. When a party issued legal notice to other party, it would be presumed that party has availed the legal assistance of the lawyer, so after issuance of legal notice delay cannot be condoned because complainant has availed the legal assistance of the lawyer. Court can condone the period of limitation if sufficient cause of each and every day is shown, but for this, complainant has to move an application, but in the present complaint, no application for condonation of delay has been moved by the complainant, so this court, its own motion cannot condone any time barred period. This complaint is hopelessly time barred from arising of cause of action as well as issuance of legal notice.

7. The instant matter was about batteries and being of technical in nature, required expert opinion, but complainant did not make any move for obtaining expert opinion. In this type of technical cases expert opinion is must but complainant failed to do so.

8. Another important point involved in the matter is that complainant produced `Ex-P/2 (invoice/purchase receipt) this receipt does not show the name of complainant as purchaser and also without bearing cell number and address.

9. in the sequence to above said discussion, it is confirmed that complainant failed to prove his complaint, although respondents have proceeded against ex-party but it is the duty of court to deliver correct and just decision in accordance with the law, hence the present complaint is dismissed being hopelessly time barred and lack of expert opinion. File be consigned to the record room after its due completion.

**Announced**  
**30-01-2018**

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

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

**Announced**  
**30-01-2018**

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