

**IN THE COURT OF MUHAMMAD SARFRAZ AKHTAR  
DISTRICT AND SESSIONS JUDGE/PRESIDING OFFICER,  
DISRICT CONSUMER COURT MANDI BAHA-UD-DIN**

Case No.	09 of 2018
Date of institution	26.03.2018
Date of decision	03.05.2018

Mst. Shehnaz Arif wife of Muhammad Arif, Caste Mughal Kashmiri, resident of Sheranwali, Tehsil & District Mandi Baha-ud-Din.

Vs.

Raja Basharat son of Muhammad Sarwar, Caste Raja, resident of Sheranwali, Tehsil & District Mandi Baha-ud-Din.

**Present:** Ch. Safdar Abbas Warraich Advocate counsel for claimant.

Mr. Muddassar Iqbal Gondal Advocate counsel for defendant.

Arguments heard.

**ORDER:**

This claim under section 25 of the Punjab Consumer Protection Act, 2005 (hereinafter referred as the Act) has been brought by claimant Mst. Shehnaz Arif against defendant Raja Basharat maintaining therein that an oral deal was entered with the defendant for installation of iron grill of specific design for consideration of Rs.44,500/-; the grill was affixed in the month of July-2017 but it was not as per design and even it did not fulfil the purpose for which it was got affixed; the defendant was asked for replacement of grill but he refused; legal notice was issued to defendant on 28.02.2018 but the grievance of the claimant was not redressed; due to conduct of the defendant the claimant

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suffered damage and loss who claims damages to the tune of Rs.85,500/-.

2. In his written statement the defendant controverted the claim with the stance that in fact an amount of Rs.19,968/- is outstanding against the claimant who in order to avoid the payment has filed instant complaint as blackmailing instrument.

3. No specific date of assignment of work to the defendant has been mentioned. However, the contents of complaint reflect that iron grill was affixed in July-2017. The documents provided by the defendant reflect that order was placed on 02.06.2017 and part payment was made on 02.06.2017 and 08.06.2017. Further as per copy of legal notice annexed with the complaint it was sent on 28.02.2018. Instant complaint has been filed on 26.03.2018.

4. Section 28 of the Act *ibid* governs the situation that for ready reference is being reproduced hereunder:-

**"28. Settlement of Claims.** (1) A consumer who has suffered damage, or Authority in other cases, shall, by written notice, call upon a manufacturer or provider of services that a product or service is defective or faulty, or the conduct of the manufacturer or service provider is in contravention of the provisions of this Act and he should remedy the defects or give damages where the consumer has suffered damage, or cease to contravene the provisions of this Act.

(2) The manufacturer or service provider shall, within fifteen days of the receipt of the notice, reply thereto.

(3) No claim shall be entertained by a Consumer Court unless the consumer or the Authority has given notice under sub-section (1) and provides proof that the notice was duly delivered but the manufacturer or service provider has not responded thereto.

(4) A claim by the consumer or the Authority shall be filed within thirty days of the arising of the cause of action:

*Provided that the Consumer Court, having jurisdiction to hear the claim, may allow a claim to be filed*

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*after thirty days within such time as it may allow if it is satisfied that there was sufficient cause for not filing the complaint within the specified period:*

*Provided further that such extension shall not be allowed beyond a period of sixty days from the expiry of the warranty or guarantee period specified by the manufacturer or service provider and if no period is specified one year from the date of purchase of the products or providing of services."*

5. Plain reading of above provision clearly indicates that a claim before the Consumer Court can be filed within thirty days of the arising of cause of action. In the instant case as mentioned above iron grill was affixed in July-2017. In this scenario even if the maximum latitude is accorded date of arising of cause of action is 31.07.2017. But in the instant case even notice to the defendant has been issued on 28.02.2018 i.e., after seven (07) months of arising of cause of action. The complaint as mentioned supra has been filed on 26.03.2018 i.e., after sixty about eight (08) months of arising of cause of action. No doubt that proviso to section 28(4) empowers the Court to allow filing of the claim even after thirty days provided sufficient cause has been shown by the claimant, yet, firstly that power is not unrestricted rather it is clearly mentioned that such extension shall not be allowed beyond a period of sixty day and secondly no such exemption or relaxation has been claimed what to talk of sufficient cause shown by the claimant. As such, the claim is barred as the same has not been brought within period specified in section 28(4) of the Act ibid as reproduced above.

6. In nutshell, the claim in the given situation is not maintainable before this forum being barred by limitation period as provided in section 28(4) of the Act ibid that cannot be entertained. The same stands dismissed. Needless to mention that in case remedy under any other law is provided, the claimant may avail the same and in such an eventuality that shall be adjudged on its own merits without being influenced from this

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order. Copy of the order be provided to the claimant as well as to the defendant in line with Rule 17 of the Punjab Consumer Protection Rules, 2009. The Registrar of this Court shall transmit copy of this order for the purpose of Rule 25 of the Rules ibid. Order accordingly. File be consigned.

Announced  
03.05.2018.

**(Muhammad Sarfraz Akhtar)**

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Certified that this Order consists of four (04) pages and each page has been dictated, read, corrected and signed by me.



Dated: 03.05.2018

**(Muhammad Sarfraz Akhtar)**

District & Sessions Judge/ Presiding Officer,  
District Consumer Court Mandi Baha-ud-Din