

**IN THE COURT OF PERVEZ IQBAL SIPRA,
DISTRICT & SESSIONS JUDGE / PRESIDING OFFICER,
DISTRICT CONSUMER COURT,
FAISALABAD.**

Complaint No 66/2016
Date of institution 09.03.2016
Date of decision 08.07.2017.

Sheikh Anwar-ul-Haq S/o Anees Ahmad R/o Mozo Jamali Kilan,
Tehsil 18-Hazari, Distract Jhang.

Versus

1. Nasir Javed, proprietor Abdullah Tubewell & Machinery Store near Madina Clinic, Layya Road, Tehsil 18-Hazari, Distract Jhang.
2. Hamaad Pipe P-145, Railway Road, Faisalabad.

Claim u/s 25 of the Punjab Consumers Protection Act, 2005.

ORDER:

By filing this claim, the claimant has contended that he purchased the material for installation of tubewell and pipe from defendant No.1 and he issued the receipt bearing No.364. He gave five years warranty regarding any defect in the material and tubewell but it proved that the pipe was not of required quality and some sand came out with water. His drip-irrigation system also became defective because of sand. In the way, the defendants provided him defective product and also their services were faulty because of which he suffered mental agony and monetary loss. He gave notice u/s 28 (1) of the Punjab Consumers Protection Act, 2005, to the defendants but of no avail, hence, the instant complaint.

2. The summons were issued to the defendants through the process server and registered post but they could not be served. Ultimately, the summons were got published in the newspaper "Daily Express" Faisalabad, but despite all it, they did not appear before the court and consequently, were proceeded against ex-parte and then the ex-parte evidence of the claimant was recorded.

3. Arguments heard, record perused.

4. The claimant while appearing before the court as PW-1 submitted his affidavit whereby he reiterated the contents of his complaint. Ghulam Abbas PW2 fully supported the claimant's stance. He stated that the claimant purchased the material for tubewell and pipe from defendant No.1 and got the tubewell installed. He is an expert and running workshop in 18-Hazari. He examined and analyzed that the material provided by defendant No.1 was defective. The receipt Ex-P2, shows that defendant No.1 sold some material to the claimant for Rs.80,760/- and installed the tubewell. The consideration for boring service was Rs.23,000/- while the price of pipe was Rs.45,760/- and the other expenses for the installation of tubewell which the claimant suffered were Rs.12,000/- and as such the total amount of Rs.80,760/- was spent by the claimant but the material provided by the defendants proved defective and that their services were also faulty because of that, the tubewell did not work properly. The claimant gave notice to the defendants u/s 28 (1) of the Punjab Consumers Protection Act, 2005 and then filed the complaint quite well within the time. In the circumstances, the claimant is held entitled to the claim to the extent of the amount spent for purchasing the material and installation of the tubewell. Hence, the complaint in hand is accepted and the defendant are directed to pay Rs.80,760/- to the claimant which they received as consideration and the defendants may remove the material from the site, if so desired. Section 10 of the Punjab Consumers Protection Act, 2005, restricts to grant damages, where the consumer has not suffered any damage from the product except the loss of utility. The claimant only suffered the

loss of utility and no further damage proves, therefore, he is not entitled to damages, however he is held entitled to costs amounting to Rs.20,000/- incurred on legal proceedings. The defendants are directed to comply with this order and if they fail to comply with this order, the proceedings u/s 32 (2) of the Punjab Consumers Protection Act, 2005 will be initiated against them. The Registrar of this court is directed to send a copy of this order to the defendants free of costs and the receipt thereof be ensured and got acknowledged. After due completion, the file be consigned to the record room

Announced
08.07.2017

(Pervez Iqbal Sipra)
District & Sessions Judge/
Presiding Officer,
District Consumer Court, Faisalabad.
Camp Office, Jhang.

Certified that this order consists of three pages and each page has been dictated, read, corrected and signed by me.

Dated
08.07.2017

Presiding Officer,
District Consumer Court, Faisalabad.
Camp Office, Jhang.

Short order**Present:-****The learned counsel for the claimant.****ORDER**

Arguments heard.

2. Vide order dated even passed in English separately, the complaint in hand is accepted and the defendants are directed to pay Rs.80,760/- to the claimant which they received as consideration and also to pay Rs.20,000/- as costs incurred on legal proceedings including the lawyer's fee. After due completion, the file be consigned to the record room.

Announced
08.07.2017

(Pervez Iqbal Sipra)
District & Sessions Judge/
Presiding Officer,
District Consumer Court, Faisalabad.
Camp Office, Jhang.