

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

Complaint No 108/2018
Date of institution 26.04.2018
Date of decision 03.05.2019.

Zishan Ashraf S/o Muhammad Ashraf R/o Imtiaz Villas House No.122, near Ghulshan Rafiq, Ridax Road, Samnabad, Faisalabad.

Versus

Chishti Very Nice Marbles & Granite, situated at College Road near Graveyard Samnabad, Faisalabad through its Proprietor Yaseen Chishti.

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

ORDER:

Through the instant claim, the claimant has contended that he purchased 2250 square feet marble till 19.02.2018, specifically of superwhite quality and paid total amount as detailed in paragraph No.6 to defendant. It is contended through the complaint that lateron marble was not found as superwhite after polishing of the same, hence, claim of Rs.13,26,730/- for providing defective product and for alleged damages etc is raised by the complainant through present complaint.

2. The defendant appeared before the court and submitted his written statement and denied all the version of the claimant.

3. At pre-trial stage, no one offered for settlement and then the evidence of both the parties was recorded

4. The following evidence was got recorded on behalf of the claimant i.e. the statement of the claimant as PW1 and other witnesses namely Muhammad Ashraf Javed S/o Muhammad Manga Khan as PW2 & Hafiz Muhammad Shahzad S/o Muhammad Riaz as

PW3 and their sworn affidavits as Ex-P1, Ex-P14 & Ex-P15 were submitted in support of claimant's claim alongwith the purchase receipts as Ex-P2 to Ex-P10, the postal receipt as Ex-P11, TCS receipt as Ex-P12, acknowledgment due card as Ex-P13, the bill for polishing the marble as Ex-P16, photographs of marble as Mark P/A to Mark P/C and copy of legal notice as Mark P/D. On the other hand, the defendant got examined Muhammad Yaseen Chishti as DW1 and his sworn affidavit as Ex-P1 was submitted in support of his version.

5. The arguments heard, record perused.

6. Admittedly, the claimant himself and other witness namely Muhammad Ashraf Javed have stated that the marble stone was purchased by the claimant and the witness by themselves after reaching the shop / store belonged to the defendant and they themselves selected the stone and the same was got fitted in the house of the claimant and the same is still the part of the constructed house of the claimant. Under these circumstances, it can easily be held that no agreement was there between the parties for supply of any specific item as alleged by the claimant rather the marble admittedly was selected and purchased by the claimant and PW on their choice and on their own selection from the spot i.e. shop / store of the defendant and the contention that the quality of marble, afterwards revealed otherwise than the agreed quality after polishing of the same, is not acceptable even to the ordinary mind as the marble available in slabs and tiles is visible for determination of its colour and quality,

therefore, it cannot be contended on behalf of the claimant that its quality lateron revealed as not being “superwhite” because grinding of the marble is always only for the purpose of making the surface of stone more shiny and the quality of the same does not change the colour and kind of the stone. Under these circumstances, the case of the claimant for defective supply of product and further claiming loss and damages, is not proved against the defendant. Moreover, mere mentioning of quality of the marble at purchase receipt as ”superwhite” also does not make the case of the claimant of recovery and damages against the defendant as no where in evidence of the claimant itself the actual quality of any super white brand is made clear at all, hence, the claim being devoid of merits and being non maintainable is hereby dismissed. After due completion, the file be consigned to the record room.

Announced
03.05.2019

(Javed Iqbal Sheikh)
District & Sessions Judge/
Presiding Officer,
District Consumer Court, Faisalabad

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

Dated
03.05.2019

Presiding Officer,
District Consumer Court, Faisalabad

Short order.

Present:-

Nemo.

ORDER

Record perused.

2. Vide order dated even, passed in English separately, the complaint in hand is dismissed. After due completion, the file be consigned to the record room.

Announced
03.05.2019

(Javed Iqbal Sheikh)
District & Sessions Judge/
Presiding Officer,
District Consumer Court, Faisalabad.