

IN THE COURT OF Mr. ABDUL HAFEEZ,
DISTRICT & SESSIONS JUDGE /PRESIDING OFFICER,
DISTRICT CONSUMER COURT,
SIALKOT/NAROWAL.

Case No.152/2012

Date of Institution: 05-09-2012.

Date of Decision:16-1-2013.

*Abbas Ali S/O Ch. Muhammad Hussain caste Khaloo R/O Sall
Teh Daska District Sialkot.*

(Complainant)

Versus

*01. Ikhlaq Ahmed S/O Muhammad Ishaq Caste Arrian R/O
Askari Colony No. 2 Sialkot, present business Shah Lasani/ Faiz-
E- Lasani Motor & property Adviser situated Pakha Gara stop
commissioner Road Sialkot.*

(Respondent)

JUDGEMENT:

1. This Complaint has been filed by the complainant under section 25 of the Punjab Consumer Protection Act, 2005 for the recovery of damages on the ground of contravention of the provisions of said Act by the respondent, in the District Consumer Court Sialkot.

2. Briefly stated facts of the complaint are that complainant is an educated and gentle citizen and is enjoying a good reputation. Respondent is running a showroom in the name and style Al-Mosoma Lasani Motor & property links/Faiz-E- Lasani Motor & property Advisors, situated Paka Gara Stop Commissioner Road Sialkot. He is doing the business of purchase and sale of the vehicles and he has got printed visiting card and receipts. A vehicle No. LEJ-07-2118 engine No. RO. 51729, chassis No.

(Contd....02)

Case No. 152/2012.

Abbas Ali VS Ikhlaq Ahmed.

L50157551439, model 2007 colour blue metlick was parked for sale in the showroom of the respondent. Respondent offered said vehicle for sale as owner. On 19-07-2012 complainant purchased the said vehicle in consideration of Rs. 4,55,000/- in presence of the witness Muhammad Irfan S/O Ghulam Muhammad and Haji Amjad Ali S/O Allah Rakha. He paid Rs. 4,55,000/- in cash, respondent issued receipt with his signature which is annexed herewith. It was amicably settled that duplicate registration copy and original documents of the vehicle shall be handed over to the complainant within 15/20 days. On the basis of receipt of vehicle, now it is being used by the complainant as owner. After passing of 15 days complainant contacted with the respondent and asked him to handover duplicate registration book and original file but he started delaying the matter. Complainant time and again contacted with the respondent but respondent refused to handover the documents and has also started threats of dire consequences to the complainant. Due to this complainant had suffered mental torture and financial loss. In respect of providing defective service and causing mental and physical and financial loss, complainant delivered legal notice to the respondent and demanded Rs. 2,10,000/- in this respect. Respondent did not submit the reply of

(Contd....03)

the said notice now complainant demands that respondent may be directed to handover duplicate registration book original documents and transfer deed of the vehicle No. LEJ-07-2118, and in respect of defective service Rs. 2,10,000/-, Rs. 23,000/- as counsel fee total Rs. 2,33,000/-.

3. Conversely respondent filed the written reply took various preliminary objections that complainant has no cause of action. Complainant has not come to the court with clean hand therefore, complaint is liable to be dismissed. On merits, he replied that bargaining effected in consideration of Rs. 4,55,000/- complainant paid Rs. 2,00,000/- and promised to pay the remaining amount of Rs. 2,55,000/- within 2/3 days. He taken away the vehicle. Upon the payment of remaining amount, registration book and original file of the vehicle was to given to him. It is incorrect that respondent issued receipt of Rs. 4,55,000/- infact he has stolen away the receipt from the showroom and thereafter he himself filled it up and has also made signature of the respondent on it. Receipt is bogus document and not issued by the respondent. Respondent reserves his right to take criminal action against the complainant. Respondent is ready to handover registration book and original file to the complainant if he pays remaining amount of

Rs. 2,55,000/- and Rs. 10,000/- commission.

4. After submission of written reply parties were directed to produce their evidence.

5. On 10-01-2012 case was fixed for complainant evidence but none appeared on behalf of the respondent at this respondent was proceeded against ex-parte. Ex-parte evidence of the complainant was recorded and case was fixed for ex-parte arguments of the complainant for 16-01-2013.

6. The perusal of the record show that in order to prove his case complainant Abbas Ali appeared in the witness box as AW.1. He produced his statement on affidavit Exh-A1 and identified his signature on Exh-A1/1 on it. He also produced receipt regarding purchase of vehicle Exh-A/2, copy of legal notice as Exh-A/3, postal receipt regarding delivery of legal notice Exh-A/4. He further deposed that respondent has promised to handover the document of the vehicle later on he cut down the word document mentioned on Exh-A/2 at Exh-A2/1. Muhammad Irfan was examined as AW.2 he produced his statement on affidavit Exh-A5 and identified his signature on it Exh-A5/1 and on 10-01-2013 learned counsel for the complainant closed the evidence.

7. The above said evidence of the complainant shows that

(Contd....05)

Case No. 152/2012.

Abbas Ali VS Ikhlaq Ahmed.

-05-

complainant in his affidavit Exh-A1 sworn that he purchased the vehicle No. LEJ-07-2118 engine No. RO. 51729, chassis No. L50157551439, model 2007 colour blue metlick situated showroom Shah Lasani motor & property links. On 19-07-2012 in presence of the witnesses Muhamad Irfan and Haji Amjad Ali bargaining was taken place in consideration of Rs. 4,55,000/- and amount was paid to the respondent. Respondent issued receipt Exh-A1 dated 19-07-2012, he also issued a visiting card Exh-A2 in presence of the witnesses. Respondent has promised to handover the duplicate registration copy and original file of the vehicle to the complainant. on the basis of the receipt, complainant is owner of the vehicle and utilizing the said vehicle. After passing of 15 days complainant demanded to handover the registration duplicate copy and original file, he started delaying the matter on the pressing of the complainant he refused to do so and started extending threats of dire consequence. At this complainant suffered mental torture and faced financial loss. Due to defective service of the respondent complainant demands of Rs. 2,00,000/- damages towards his defamation Rs. 10000/- towards the delivery of the legal notice and Rs. 23000/- as counsel fee total Rs. 2,33,000/- . The perusal of the record further shows that in support of the complainant version

(Contd....06)

Muhammad Irfan was appeared as AW.2 and submitted his statement on affidavit Exh-A5. He identified his signature on it Exh-A5/1. In his affidavit he supported the complainant version he further deposed that in his presence the respondent issued receipt. The signatures of the respondent and as well as his signature are also on the receipt. The perusal of the Exh-A2 shows that on the receipt there are signatures of Muhammad Irfan AW.2 Abbas Ali complainant and Ikhlaq Ahmed respondent. The perusal of the AW.2 further shows that on it word documents is cut off. The perusal of record shows that respondent submitted the written reply thereafter he disappeared from the court. In written reply he has denied the issuance of receipt of total amount Rs. 4,55,000/- and claimed that the complainant has stolen away the receipt from his shop and prepared the forged receipt. There is no evidence in rebuttal therefore in view of the above said it is held that complainant has successfully proved his case against the respondent.

8. The upshot of the above discussion is that respondent is directed to handover the registration book and original file alongwith transfer letter and other necessary documents which are helpful for the transferring of the vehicle in the name of the

Case No. 152/2012.

Abbas Ali VS Ikhlaq Ahmed.

-07-

complainant. Moreover, complainant has demanded Rs. 2,00,000/- as damages towards the mental agony suffered by him alongwith notice fee Rs 10000/- and Rs. 23000/- litigation expenses and counsel fee. Complainant has not produced any evidence to prove that complainant has suffered agony or mental torture to the extent that he suffered loss of Rs. 200000/- or he was defamed nor he has produced receipt regarding payment of legal notice fee and legal expenditures, therefore in view of the above said his claim to the extent of Rs. 2,33,000/- is hereby denied however since the complainant delivered the legal notice to the respondent for redressel of his grievance, instituted the complaint, appeared before this court for many time in this respect he had to suffer mental torture as well therefore in view of the above said in the interest of justice he is awarded compensation of Rs. 25000/- in this respect and respondent is also directed to pay said Rs. 25000/- with documents of the vehicle to the complainant within 30 days of the passing of this judgment otherwise he shall be proceeded under section 32 of the Punjab Consumer Protection Act, 2005. Copy of this judgment be given to the parties free of costs. File be consigned to the record room after it's due completion.

Announced:
16-01-2013.

Presiding Officer,
District Consumer Court
Sialkot/Narowal.

CERTIFICATE

Certified that this order contains 7 pages and each of pages is dictated, corrected and signed by me.

Announced:
16-01-2013.

Presiding Officer,
District Consumer Court
Sialkot/Narowal.