

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

Case No. 01 of 2019  
Date of institution 12.01.2019  
Date of decision 15.01.2019

✓ Muhammad Aslam son of Ghulam Qadir, Caste Gondal, resident of Pandowal Bala, Tehsil & District Mandi Baha-ud-Din.

**Vs.**

Muhammad Arshad son of Nadir khan, Caste Dindar, resident of Khatiyala Sheikhan, Proprietor New Swera Zari Adviyat aur Beej, Tehsil & District Mandi Baha-ud-Din.

**Present:** *Ch. Saif Ullah Khan Gondal Advocate counsel for Claimant.*  
*Claimant in person.*  
*Nemo for Defendant.*  
*This is fresh Complaint. Be registered. Report of Registrar perused.*  
*Preliminary Arguments of Claimant.*

**ORDER:**

This claim under section 25 of the Punjab Consumer Protection Act, 2005 (hereinafter referred as the Act) has been brought by Muhammad Aslam claimant against Muhammad Arshad defendant. The claimant maintain that he purchased four sacks of Kisan Super seed on 20.05.2018 from the defendant for consideration of Rs.4000/- but no receipt was issued. The defendant assured the claimant that in case the seed was subsequently found to be of any other kind the defendant shall be responsible for any loss. On 2.10.2018 when the crop was ripped, it was found that in fact the seed was not of Kisan Super but of Nayab Super that caused a loss of about Rs.3,00,000/- to the

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Presiding Officer  
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claimant. The matter was brought to the notice of defendant but he did nothing. Legal notice was issued to defendant on 22.12.2018. As the grievance of the claimant has not been redressed, complaint has been filed. The claimant now claims compensation of Rs.3,00,000/- alongwith costs.

2. During the course of arguments learned counsel responded that the limitation for filing of the complaint is thirty days and complaint has been filed within that period after issuance of legal notice.

3. Ignoring the factum that no receipt of purchase has been annexed, as per contents of complaint seed was purchased on 20.05.2018. The crop ripped off on 02.10.2018 when as per stance of claimant it came to his knowledge that the kind of seed is not what was purchased. Legal notice was sent on 22.12.2018 i.e., after seven months of purchase and two months and twenty days after coming to knowledge about the defect. Instant complaint has been filed on 12.01.2019 i.e., after about seven months and twenty three days of purchase and three months ten days of alleged knowledge.

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

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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 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. Even if some credence is given to this stance of the claimant then too for the purpose of limitation under the Act ibid the cause of action occurred about 03 months and ten days prior to filing of complaint (when the claimant as per his stance came to know on 02.10.2018 that seed is of other kind) within the meaning of section 28(4) above. 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 days 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 being barred by limitation period as provided in section 28(4) of the Act ibid cannot be entertained. The same stands dismissed. Needless to mention that in case

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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 order. Copy of the order be provided to the claimant and also sent 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  
15.01.2019.

**(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: 15.01.2019

**(Muhammad Sarfraz Akhtar)**

District & Sessions Judge/ Presiding Officer,  
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