

**ORDER SHEET**  
**IN THE LAHORE HIGH COURT,**  
**MULTAN BENCH, MULTAN.**  
**JUDICIAL DEPARTMENT**

**F.A.O. NO.134 OF 2012.**

S.E. MEPCO and others Vs. Judge District Consumer  
Court and another

Sr. No. of order/ proceeding	Date of order/ proceeding	Order with signature of Judge, and that of parties or counsel, where necessary.
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**18.10.2018 Rao Muhammad Iqbal, Advocate for the appellants.  
Respondent No.2 already proceeded against exparte.**

This is first appeal against order dated 31.08.2012 passed by learned Presiding Officer, District Consumer Court, D.G. Khan Camp at Layyah, whereby the complaint filed by respondent No.2 stood accepted.

2. The background of this F.A.O. is that Muneer Ahmed Khan-respondent No.2 (respondent) filed a complaint against the appellants before the learned District Consumer Court, D.G. Khan Camp at Layyah (the District Consumer Court), alleging therein that he got allocated five transformers, but the said transformers were installed at other locations instead of approved sites and as such respondent prayed for installation of said transformers on the allocated sites. The said complaint was contested by the appellants, maintaining that though the allocation mentioned by the respondent had been approved, but all the cases for installation of transformers had to be

completed subject to release of funds. The complaint filed by the respondent was accepted vide order dated 31.08.2012 passed by the learned Presiding Officer, District Consumer Court, in following terms:-

*“...the complaint is conditionally accepted and all un-authorized transformers are required to be shifted to the allocated sites immediately while a report is directed to be filed within one month about allocated transformers and installed transformers and allocations of the installed transformers so as to determine that if the transformers were used for the sites other allocated sites through the Ex.En while the concerned Ex.En would be liable to the sentence of simple imprisonment of two years each at Central Jail D.G. Khan on account of each and every transformers which is found to be used for un-allocated site. All the sentences would run concurrently and all un-authorized transformers are required to be shifted to the allocated sites immediately.”*

3. The appellants, by filing instant F.A.O., have assailed the above order, mainly on the grounds of against facts, law and as such the same is not sustainable. It has been maintained by learned counsel for the appellants that the learned District Consumer Court has no jurisdiction to take cognizable of the matter being not a case of faulty services.

4. Arguments heard. Record perused.

5. The Consumer Court established under the Punjab Consumer Protection Act, 2005 (The Act) is not a court of general jurisdiction, so it is its duty to examine the allegations raised in the complaint in order to determine its jurisdiction. The complaint

made by the respondent is vague and general allegations have been leveled therein. The only prayer of the respondent in the said complaint is regarding installation of the transformers on the allocated sites and there is no dispute regarding any defective products or faulty services. As such the complaint made by the respondent does not confer jurisdiction to the Consumer Court to adjudicate upon the same. In case "Sub-Divisional Officer (Operation), FESCO vs. Muhammad Illyas" **2016 CLC 1417 [Lahore (Bahawalpur Bench)]**, it has been held as under:-

*"...in order to invoke the jurisdiction by the Consumer Court, it must have satisfied that the products complained against suffered from any of the defects specified in the claim or that any or all of the allegations contained in the claim about the services provided are true, then it could issue direction in the above said manner. However, from the bare reading of the complaint filed by the respondent before the learned Consumer Court, one can find that it is not regarding any defective product or faulty services, rather the dispute raised by the respondent related to correction of detection bill, which falls within the exclusive jurisdiction of the Civil Court in view of the dictum laid down by the august Supreme Court of Pakistan in PLD 2006 SC 328, rightly relied upon by learned counsel for the appellant."*

Similar view has been taken in the judgment dated 24.11.2017 passed by this Court (Multan Bench) in F.A.O. No.125 of 2012 titled as "Executive Engineer MEPCO, etc. vs. District Consumer Court etc."

6. Admittedly, the appellants distribute and supply electricity to the consumers within the

territory under a Distribution License granted by National Electric Power Regulatory Authority (NEPRA) in pursuance of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (NEPRA Act), which is a Federal Statute and as such the Consumer Court has no jurisdiction to deal with the matter. So the Consumer Court has transgressed its powers and erred in law while assuming its jurisdiction in the matter. Reliance is place on case "Askari Bank Ltd. and others vs. Irfan Ahmed Niazi and others" (PLD 2016 Lahore 168) & "Standard Chartered Bank (Pakistan) Limited through Manager vs. Shafqat Ullah Tahir" (2016 CLD 1546 Lahore).

7. Coming to merits of the case it has been observed that the respondent has not given any date when he got allocated transformers for which residential scheme and the date on which in violation of such allocation the transformers were installed at other residential area(s). The respondent has also failed to mention the date when the cause of action has arisen in his favour and before approaching the learned Consumer Court he had issued any legal notice to the appellant or not. Whereas under Section 28(1) & (3) of the Act issuance of notice is mandatory and without such legal notice complaint cannot be filed. For ready reference relevant provisions are reproduced as under:-

**"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 Court.*

(2). ----

(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."(emphasis supplied)

The complaint of the respondent is suffering from inherent defects and even the controversy involved in the complaint was factual one and could not be resolved without recording evidence of the parties and on this score alone the impugned order is not sustainable.

8. For what has been discussed above, the instant F.A.O. is allowed ex parte, the impugned order dated 31.08.2012 passed by the District Consumer Court is set aside and the complaint filed by the respondent stands dismissed.

**(Mujahid Mustaqeem Ahmed)**

Judge

APPROVED FOR REPORTING

Judge