

# IN THE HIGH COURT OF SINDH, KARACHI

## *High Court Appeal No. 246 of 2022*

PRESENT:

MR. JUSTICE AQEEL AHMED ABBASI  
JUSTICE MRS. KAUSAR SULTANA HUSSAIN

### Fresh Case

1. *For orders on CMA No. 2300/2022.*
2. *For orders on office objection a/w. reply at 'A'.*
3. *For orders on CMA No. 2301/2022.*
4. *For hearing of main case*
5. *For orders on CMA No. 2302/2022.*

### 10.08.2022:

Mr. Mohamed Vawda, advocate for the appellants.

## **O R D E R**

1. Granted.

2-5 Instant High Court Appeal has been filed by the appellants, against an ad-interim order dated 21.07.2022 passed by the learned Single Judge in Suit No. 1055 of 2022 filed by the respondents seeking Declaration, Perpetual Injunction, Rendition of Accounts and Damages, whereby, according to learned counsel for the appellants, while issuing notices to the defendants, learned Single Judge has been pleased to restrain the appellant No. 1 from breaching the confidentiality,, non-competition, non-solicitation agreement executed on 03.02.2020.

Learned counsel for the appellants submits that the appellant No.1 was an employee with respondent No.1, who resigned from the services on 24.02.2022, whereafter, he has setup independence business by incorporating a private limited company, who carry on the business of wellness and provide health and wellness solutions and has never signed any agreement with respondent No.1, containing any restraining covenant, whereas, according to learned counsel for the appellants, the agreement purported to be signed by the appellant, is duly signed on behalf of respondent No.2 with whom the appellant No.1 has never work or any business activity. Per learned counsel, through misrepresentation,

the respondents have obtained restraining order, which affects livelihood of the appellant, which violates the right of individual earning or enter into any violation of the provision of Article 18 of the Constitution of the Islamic Republic of Pakistan, 1973. In support of his contention, learned counsel for the appellants has placed reliance in the case of (i) Exide Pakistan Ltd. v. Malik Abdul Wadood [**2009 CLD 716**]; & (ii) Colgate Palmolive (Pakistan) Ltd. v. Rai Tahir Iqbal & another [**2018 PLC Note 42**].

Though, we are not inclined to entertain High Court Appeals against ad-interim order on the first date of hearing, unless, mere patent illegality or gross violation of law is pointed out by the appellant, however, keeping in view the contention of the learned counsel for the appellants that the appellant No.1 never signed any such agreement upon which reliance has been placed, nor the appellant No.1 was in employment of respondent No.1, whereas, it appears that the livelihood of the appellant No.1 has been affected through impugned order, which has been passed without providing opportunity of being heard, therefore, we will dispose of instant High Court Appeal, with the directions to the appellants to appear before the learned Single Judge, while submitting reply/response on the injunction application or may file application under Order 39 Rule 3 CPC for recalling/modification the impugned ad-interim order passed by the learned Single Judge, who may pass appropriate order after hearing the parties and disposed of the injunction application accordingly, however, in the meanwhile, the operation of the impugned order to the extent of restraining the appellant No.1 from carrying on the lawful business activity, shall remain suspended.

Instant High Court Appeal stands disposed of in the above terms alongwith listed applications.

***JUDGE***

***JUDGE***

**A.S.**