

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
M.A. No. 15 of 2023

<i>Date</i>	<i>Order with Signature(s) of Judge(s)</i>
-------------	--------------------------------------------

HEARING/PRIORITY.

1. For orders on office objection.
2. For hearing of CMA No. 731 of 2023
3. For hearing of main case.

23.04.2025

M/s. Jawwad Hyder and Uzma Khan, Advocates for the Appellant.
Mr. Intikhab Alam, Advocate for the Respondent.
Ms. Deeba Ali Jaffri, Assistant Advocate General, Sindh.

-X-X-X-X-X-

The instant Civil Misc. Appeal has been filed impugning the Order dated 11.01.2023 passed by the Vth Senior Civil Judge Karachi (West)/ Special Court for Cooperative Societies, Karachi Division, in Suit No. 1267 of 2021. Succinctly stated, the Appellant/Plaintiff in the Suit filed an application under Section 151 CPC, seeking the recalling of the examination-in-chief of the Respondent No. 7. The said application was moved due to the failure of the learned counsel to appear during the recording of the examination-in-chief of Respondent No.7.

Learned counsel for the Appellant has stated that due to unavoidable circumstances, he was not present when the examination-in-chief of Respondent No. 7/ Defendant No. 7 was recorded by the learned trial Court. He has further stated that certain documents were exhibited during the said examination-in-chief, which were not part of the pleadings. Therefore, the Court, in recording the examination-in-chief in his absence, allowed and permitted the Respondent to exhibit documents that, according to the Appellant, should not have been exhibited. In this regard, the learned counsel for the Appellant argued that this matter may be remanded back to the learned

trial Court with direction to record the examination-in-chief again and to allow for objections to be raised on certain documents that, in his view, were not part of the pleadings filed by the said Respondent.

Conversely, learned counsel for the Respondent No.7 has vehemently opposed the Appellant's contentions. He has stated that all the documents have already been filed along with the Written Statement, and no new documents were exhibited as part of the examination-in-chief. He further stated that the cross-examination of the Respondent has already been partially conducted by the learned counsel for the Appellant, and granting the instant Appeal will only prolong the matter unnecessarily.

I have heard the learned counsel and perused the record.

It is evident that the examination-in-chief of Respondent No. 7 was conducted while the counsel for the Appellant was not present on the said date. However, I find no merit in the instant Appeal for the reasons that it is still open to the Appellant to cross-examine the Respondent and to ask questions that will determine the admissibility and relevance of the documents placed on record during the examination-in-chief and exhibited at that time. Moreover, since the cross-examination has already been partly completed, I see no reason to allow the instant Appeal, which would require Respondent No. 7 to undergo the examination-in-chief again, after which the process of cross-examination would also have to begin anew.

It is also a settled principle of law that merely exhibiting a document does not confer finality, and the admissibility of any documents will be determined by the trial Court during the course of the final arguments.

For the reasons outlined above, the instant Appeal is devoid of merit, and the impugned Order does not warrant any interference. Therefore, the instant Appeal is dismissed with no order as to costs.

JUDGE

Jamil