

THE HIGH COURT OF SINDH KARACHI

Before:

Mr. Justice Yousuf Ali Sayeed

Mr. Justice Adnan Iqbal Chaudhry

C.P. No. D – 6422 of 2024

[M/s. Gresham's Eastern (Pvt.) Ltd. v. The President of Pakistan & another]

Petitioner : M/s. Gresham's Eastern (Pvt.) Ltd.
through Mr. Muhammad Khalid,
Advocate.

Respondent No.1 : The President of Pakistan through
Ms. Mehreen Ibrahim, Deputy
Attorney General for Pakistan.

Respondent No.2 : Habib Metropolitan Bank Limited
through Mr. Ghulam Ali Khan,
Advocate.

Date of hearing : 07-09-2026

Date of decision : 07-09-2026

ORDER

Adnan Iqbal Chaudhry J.- The Petitioner has challenged decision dated 18.12.2023 by the President of Pakistan on a representation made by Respondent No.2 (the Bank) under section 14 of the Federal Ombudsmen Institutional Reforms Act, 2013 [**the FOIRA**], whereby order dated 30.03.2023 passed by the Banking Mohtasib in the Petitioner's favor under section 82E of the Banking Companies Ordinance, 1962 [**the BCO**], was set-aside.

2. Heard learned counsel and perused the record.

3. The Petitioner's complaint before the Banking Mohtasib was that Respondent No.2 was unlawfully withholding balance payment owed to the Petitioner under a local letter of credit (LC) issued by Respondent No.2 at the behest of the purchaser of goods, namely M.I. Industries. The complaint was allowed by the Mohtasib by directing Respondent No.2 to make payment within 30 days to the Petitioner's bank.

4. While passing his order the Mohtasib noted that M.I. Industries had in the meantime filed a civil suit in the High Court of Sindh under section 20 of the Arbitration Act, 1940, whereupon Respondent No.2 was restrained from making payment under said LC; nevertheless, the Mohtasib proceeded to pass the order taking the view that section 18 of the FOIRA ousts the jurisdiction of a Court to entertain a matter falling within the jurisdiction of the Mohtasib. Against such order, both the Respondent No.2 and M.I. Industries made representations to the President, who was inclined to set-aside the Mohtasib's order. The President held that while the High Court of Sindh was seized of a civil suit touching upon the matter and had also restrained Respondent No.2 from making payment under the LC, the Mohtasib could not have proceeded on the complaint in view of sub-section (4) of section 82D of the BCO which stipulates that: "Subject to section 82C, the Banking Mohtasib shall not have any power to issue an order in the nature of a stay order or to entertain any complaints if the matter is pending before a court or other legal forum."

5. In assailing the order of the President, the petition is fixated on the provision of section 18 of the FOIRA. No ground has been advanced to address sub-section (4) of section 82D of the BCO, which was the provision relied upon by the President to set-aside the Mohtasib's order. It is not the Petitioner's case that said provisions are in conflict. In the absence of such ground, we do not find any error in the President's order.

6. The other prayer in the petition is for a direction to the Court seized of the civil suit filed by Respondent No.2 (transferred from the High Court of Sindh to the Senior Civil Judge) to dismiss the same for want of jurisdiction in view of section 18 of the FOIRA. The prayer is clearly misconceived. A question to the jurisdiction of the civil court is beyond the purview of these proceedings.

7. We are informed by learned counsel that as the matter presently stands, the underlying civil suit stands dismissed for non-

prosecution *albeit* an application for its restoration has been moved by M.I. Industries.

8. It is to be noted that while setting-aside the Mohtasib's order, the President did not dismiss the Petitioner's complaint before the Mohtasib has having been instituted before a forum without jurisdiction, apparently because the complaint had been filed prior to the suit, and to give effect to sub-section (4) of section 82D of the BCO it sufficed for the President to observe that the Mohtasib could not have given a decision while the suit was pending. In other words, the Petitioner's complaint before the Mohtasib was kept in abeyance pending suit. Upon dismissal of the suit, that complaint is reinstated as the restriction imposed by sub-section (4) of section 82D of the BCO is no more; and then, the effect of the President's order is that the Mohtasib is to decide Petitioner's complaint afresh in changed circumstances. Therefore, if the suit stands dismissed, the Petitioner may pursue his complaint before the Mohtasib. With that observation, the petition is dismissed.

The office shall dispatch a copy of this order to the learned Banking Mohtasib for information.

JUDGE

JUDGE

**PS/SADAM*