

IN THE HIGH COURT OF SINDH AT KARACHI

Suit 319 of 2020 : Bench Mark Pakistan vs. Union Add Advertisement Co.

For the Plaintiff : Mr. Muhammad Arif Advocate

Date of hearing : 27.02.2020

Date of announcement : 27.02.2020

For orders on CMA No.2682/2020

ORDER

Agha Faisal, J. This suit has been filed against a sole defendant residing in Lahore and upon cause of action demonstrably pleaded to have accrued in Lahore. On the first date of hearing¹ the learned counsel was put on notice to satisfy the court on the issue of territorial jurisdiction, pursuant to Order VII rule 10 CPC.

2. Learned counsel appeared today and argued that certain emails were sent to the defendant, by the plaintiff, from Karachi, hence, this court had jurisdiction. It was further argued that the defendant had contractual dealings with entities in Karachi, hence, this court could assume jurisdiction.

3. Mere sending of emails by a plaintiff based in Karachi cannot be grounds to confer jurisdiction. Furthermore, any purported dealing of the defendant with any extraneous entity in Karachi, in the absence of any demonstrable nexus of the plaintiff therewith, does not satisfy the requirements of Section 20 CPC.

4. This court has earlier² maintained that whenever any suit is filed in this High Court and is found that it does not relate to any of the Districts of Karachi then the same has to be returned back to the plaintiff for its presentation before a Court of appropriate jurisdiction

¹ 24.02.2020.

² *Muhammad Naveed Aslam & Others vs. Aisha Siddiqui & Others*, reported as *PLD 2010 Karachi 261*.

under Order VII rule 10 of the Civil Procedure Code. The aforementioned judgment was maintained by a learned Division Bench of this Court and it was held³ that the provisions of Order VII Rule 10 are mandatory in nature and adjudication by a court without jurisdiction is coram non-judice and when any court lacks pecuniary or territorial jurisdiction, the proper course is to return the plaint for presentation to the proper court and such courts cannot pass any judicial order except that of returning the plaint.

5. In view of the foregoing and with the specific reference to the binding ratio of the judgments referred supra, this court has reached the conclusion that it has no territorial jurisdiction to entertain or adjudicate this suit, therefore, in exercise of the powers conferred by the mandatory provisions of Order VII Rule 10 of CPC, the plaint in the subject suit is hereby ordered to be returned to the plaintiff for its presentation before the court of appropriate jurisdiction, after retaining copies for the record.

JUDGE

³ *Muhammad Naveed Aslam & Others vs. Aisha Siddiqui & Others*, reported as 2011 CLC 1176.