

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
Suit NO. 1121 of 2019

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Date	Order with signature of Judge
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For hearing of CMA No. 8939/2019.

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**13.11.2019.**

Mr. Mazhar Imtiaz Lari, Advocate for the Plaintiff  
Mr. Adnan Ahmed Zafar, Advocate for the Defendants No. 2 & 3  
Mr. Kafeel Ahmed Abbasi, DAG

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Mr. Tahir Khalid, advocate holds brief for Mr. Muhammad Khalil Dogar, advocate, who is appearing for Defendant No. 4 and requests for adjournment as he is busy before another Bench of this Court. On the other hand learned Counsel for the Plaintiff pleads urgency on the ground that consignment is lying at Port, whereas, the primary dispute is between Plaintiff and Defendant No.2 & 3.

This is a Suit for declaration, directions and injunction and through listed application, the Plaintiff seeks directions against Defendants No. 2 & 3 for amending the Bill of Lading in question and so also for releasing the consignment in the name of new consignee. Learned Counsel for the plaintiff submits that the goods in question were shipped to Defendant No.1 on 100% Cash Against Document (CAD) basis; however, when the goods were shipped and arrived at Karachi, and when documents were presented with the corresponding bank at Karachi, Defendant No.1 requested for extension in time for payment to 30-45 days instead of CAD, which was not accepted by the Plaintiff, and thereafter the Defendant No.1 has lost interest and has not come forward for making payment and to take delivery of the goods. He submits that in this Suit defendant No.1 stands served pursuant to publication; but no one has turned up to defend the Suit, whereas, the Plaintiff is suffering on daily basis as the goods are not being released to the Plaintiff's new consignee on one pretext or the other. He further submits that directions be issued to the defendants for issuing a corrected and or amended Bill of Lading in the name of new consignee i.e. M/s. Taufiq International.

Learned Counsel for Defendants No.2 & 3 submits that though instructions have been received from the Loading Port for change of consignee's name; however, they have not acted any

further as NOC of Defendant No.1 is required, whereas, they also have apprehension that Custom Authorities may take some penal action.

I have heard both the learned Counsel and perused the record. The Plaintiffs case seems to be of hardship, whereas, Defendant No.1 despite being served has failed to come forward. On perusal of the record it appears that terms of payment were on CAD basis, whereas, the Bill of Lading and the goods in question were shipped in the name of Defendant No.1; however, they have not come forward to make payment and get the documents retired from the Bank. As a consequence thereof, the consignment is stuck at port, whereas, admittedly the Plaintiff is the owner of goods at present and has arranged another buyer; but for want of new bill of lading and necessary correction in the Import General Manifest, cannot proceed any further. It is also a matter of record that original Bill of Lading (all 3 Sets) have been surrendered to Defendant No.2 & 3, with the request to change the consignee name and such fact has also not been disputed, except NOC of Defendant No.1 and the apprehension of penal action by the Customs Authorities

In view of hereinabove facts and circumstances of this case, it appears that a case for indulgence is made out by the Plaintiff. Accordingly, listed application is disposed of by directing Defendants No.2 & 3 to issue amendment in the Import General Manifest filed by them with the Custom Authorities i.e. Defendant No. 4 by incorporating the name of the new consignee as requested by the plaintiff and shall also issue necessary delivery order upon payment of their charges, whereas, the Customs Authorities shall process the same in accordance with law expeditiously.

Application stands disposed of in the above terms.

J U D G E

Faisal Mumtaz\*