

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI  
Suit No.1550 of 2000

DATE	ORDER WITH SIGNATURE OF JUDGE
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For Final Arguments

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25.10.2016.

None present.

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None present for the plaintiffs nor for defendants. Since this matter is pending from the year 2000 and has not been proceeded with on behalf of the plaintiff on one pretext or the other after completion of the evidence, the same is being decided on the basis of material available before the Court.

Instant Suit has been filed by the plaintiffs for Declaration, Permanent Injunction and Damages amounting to Rs.10 Million. It is the case of the plaintiffs that they were government employees and were working in FIA and had conducted a raid at the premises of defendants No.1 & 2, who according to their information were involved in selling smuggled and expired veterinary life saving medicines unfit for animal consumption and charging exorbitant rates. It is further stated that pursuant to such raid, defendants No.1 & 2 filed C.P No. S-181/1999 against the plaintiffs and also approached the higher authorities of Ministry of Interior as well as FIA, whereafter their statements were recorded and F.I.R was lodged against them, which according to the statement of the plaintiffs is still pending and being aggrieved by this registration of F.I.R, instant Suit has been filed, wherein, following prayer has been made:-

- (a) That the raid conducted by the plaintiffs at the Clinic of the defendants No.1 & 2 was in accordance with law as the defendants 1 & 2 were selling and administering smuggled and expired medicines.
- (b) That while conducting such raid at the Clinic of defendants 1 & 2, the plaintiffs were acting as a Customs Officers as envisaged under Section 6 of the Customs Act, 1969 and as such search/recovery and seizure was legal.
- (c) That defendant No1 was not a Doctor qualified to run a veterinary Hospital.

- (d) That the allegations of removing various amounts and demand made by the plaintiffs are false, after thought and an attempt by the defendants 1 & 2 to blackmail the plaintiff so that the defendants 1 & 2 be not prosecuted for being in possession of smuggled medicines and expired drugs.
- (e) That the false allegations levied by the defendants 1 & 2 have caused serious prejudices to the plaintiffs resulting in loss of reputation, Social disgrace and mental torture.

AND WHILE GRANTING SUCH DECLARATION, this Honourable Court may be pleased to restrain the defendants, especially defendants No.3 & 4 from acting on false complaints of the defendants 1 & 2 and initiating any Criminal action against the plaintiffs who acted in line of their duty.

AND WHILE GRANTING SUCH DECLARATION AND INJUNCTION, this Honourable Court may be pleased to pass a Judgment and Decree against the Defendants 1 & 2 severally and/or jointly and in favour of the plaintiffs for a sum of Rs.10 millions.

Pursuant to issuance of summons the defendants file their written statement and refuted the claim of plaintiffs and contended that since the plaintiffs had unlawfully acted, and had taken bribe from them, complaints were made to the higher authorities whereafter on proper enquiry and investigation FIR was lodged against them and they were arrested and thereafter bailed out, hence instant Suit is incompetent and an attempt to harass them. Subsequently when evidence of the plaintiffs was being recorded none has appeared to cross-examine the plaintiff's witness, whereafter their side was closed vide orders dated 13.2.2008 and 15.4.2008 as they also failed to lead evidence. Since then the matter is coming up for Arguments.

I have gone through the record and material placed before the Court including the evidence led by the plaintiffs. It appears that in this matter the primary grievance of the plaintiffs appears to be the registration of F.I.R against them at the behest of defendants No.1 & 2 and suffering of mental torture and tension including damage to their reputation amongst the family and friends. When instant Suit was filed, the F.I.R was pending, whereas, in the evidence also it has come on record that no final judgment has been passed in the said case, and still appears to be pending as nothing has been brought on record to the contrary. Although it has not been categorically stated in the title of the plaint, but apparently this matter appears to be a claim of damages due to malicious prosecution, however, the same could have only been filed by the plaintiffs after they are honorably acquitted by the competent

Court which according to their own case is still pending. Moreover, no positive evidence has been led by them to the effect that they have actually suffered damages due to such prosecution. It further appears that they have also sought declaration to the effect that the raid conducted by them at the premises of defendants No.1 & 2 was in accordance with law, which I am afraid cannot be granted in a Civil Suit, coupled with the fact that criminal case is still pending against them.

In view of hereinabove facts and circumstances of the case, I am of the view that the plaintiffs have failed to make out any case in their favor. Accordingly instant Suit is dismissed, however, with no order as to costs.

J U D G E

Ayaz P.S.