2015 Y L R 2141

[Sindh]

Before Muhammad Shafi Siddiqui, J

BANK ALFALAH LTD.---Plaintiff

versus

NEU MULTIPLEX AND ENTERTAINMENT SQUARE COMPANY (PVT.) LTD.---Defendant

Suit No.128 of 2014, decided on 14th July, 2014.

(a) Civil Procedure Code (V of 1908)----

----O. XXXIX, Rr. 1 & 2---Specific Relief Act (I of 1877), Ss. 12, 21(a) & (d) & 56(f)----Contract Act (IX of 1872),Ss. 2(a), (b) & 10---Suit for specific performance of agreement---Application for temporary injunction--- Essentials---Mandatory injunction as interim relief---Rules and effect--- Contracts not specifically enforceable--- Unilaterally revocable agreements---Specific enforceability---Formation of contract---Absolute and unqualified acceptance of proposal---Requirement---Plaintiff filed suit for specific performance of contract claiming that defendant failed to perform agreement on ground of delay in execution thereof, whereas signing of agreement was mere formality as material terms had already been agreed upon and they began preparation in pursuant to negotiation, which had constituted a binding contract---Defendant took plea that correspondence between parties did not indicate absolute and unqualified acceptance and defendant had already entered into contract with a third party which had been acted upon before filing of the present suit---Validity---No conclusive or binding contract existed between the parties as some terms of agreement were yet to be determined---Plaintiff failed to contact defendant for a long period, as each day would count---If proposal or counter proposal had provided that parties might like to negotiate or resolve certain terms, then agreement upon which the contract could be founded would have been missing---Under draft agreement, duration of agreement was only thirteen months from date of execution and the agreement was terminable by either party subject to three month notice in advance without assigning any reason---Even if correspondence were considered to be conclusive and binding agreement, the agreement was unilaterally terminable by parties, which was beyond scope of specific performance---Agreements with termination clauses breached by one party could not be subjected to specific performance---Termination of agreement was subject to parties' right accruing prior to date of such termination, but such rights were with reference to wrongful termination that might lead to claim damages but specific performance of such agreement was to be dealt with strictly in accordance with provisions of Ss.21(d) & 56(f) of Specific Relief Act, 1877---Breach of revocable contract could not be prevented by way of injunctive order in terms of S. 21(d) of Specific Relief Act, 1877, and for said section contract for non-performance of which compensation in money was adequate, relief could not be specifically enforced---If the court had found that there was binding contract between the parties, plaintiff would fail to establish prima facie case and losses which could not be measured in terms of money---No prima facie case was established when nature of agreement was revocable---Plaintiff's pleadings did not lead to conclusion that plaintiff would suffer immeasurable loss which could not be compensated in terms of money-Maintenance of status quo would not help plaintiff, as defendant had already awarded contract to third party who was operating---Mandatory injunction could not be granted by way of interim relief as grant of such relief would tantamount to grant of final relief which would seriously prejudice defendants---No case was made out for grant of mandatory injunction---Application for grant of injunction was dismissed in circumstances.

(b) Contract Act (IX of 1872)---

----S. 10---Agreement which are contracts---Contract was a result of proposal and its unqualified acceptance---If proposal or counter proposal provided that parties may like to negotiate or resolve certain terms, then agreement upon which the contract can be founded will be missing.

(c) Specific Relief Act (I of 1877)---

----Ss. 12, 21(a) & (d)& 56(f)----Agreements with termination clauses breached by one party cannot be subjected to specific performance---Termination of agreement is subject to parties' right accruing prior to date of such termination, but such rights are with reference to wrongful termination that may lead to claim damages but specific performance of such agreement is to be dealt with strictly in accordance with provisions of Ss.21(d) & 56(f) of Specific Relief Act, 1877.

Damon Cia Naviera SA v. Hapag-Lloyd International SA [1985] 1 AER; Trimex International FZE Limited v. Vedanta Aluminium Limited (2010) 3 Supreme Court Cases 1; Commissioner Mekran v. Haji Abdul Waheed 2012 CLD 1659; Pakistan v. MCB 1982 CLC 2495; Gaddar Mal v. Tata Industrial Bank AIR 1927 Allahabad 407; Al-Huda Hotels and Tourism v. Paktel Limited 2002 CLD 218; Muhammad Matloob v. Jamshed Marker PLD 2006 Kar. 523; Rajasthan Breweries Limited v. Stroh Brewery Company AIR 2000 Delhi 450; D.R. Sondhi and others v. Hella Kg Hueck and Co. (Suppl.) Arb LR 502 (Delhi); Pakistan State Oil Company Limited v. Federation of Pakistan 2010 CLC 1843; Royal Foreign Currency v. The Civil Aviation Authority 1998 CLC 374; Messrs Pakistan Associated Construction Ltd. v. Asif H. Kazi 1986 SCMR 820 and Obaidullah and another v. Habibullah PLD 1987 SC 835 rel.

Jehanzeb Awan for Plaintiff.

Ameen Muhammad Bandukda for Defendant.

Dates of hearing: 14th, 21st and 29th May, 2014.

ORDER

MUHAMMAD SHAFI SIDDIQUI, J.---By this common order I intend to dispose of C.M.A. No.1085/14 and C. M. A. No. 1680/14 one under Order XXXIX, Rules 1 and 2, C.P.C. and the other under Order XXXIX, Rule 4, C.P.C. filed by the plaintiff and the defendant respectively.

In brief the facts of the case as narrated by the learned counsel for the plaintiff are that the plaintiff which is a banking company/ financial institution approached the defendants with reference to an entertainment complex under the name and style "The Place" which is owned and managed by defendant. It is urged that the complex provides ideal value for the purpose of branding and advertising to be displayed on the facade apart from digital indoor displays. It is contended that the discussion of 16-9-2013 between the parties was fruitful and the parties agreed to enter into broad term of an agreement and a proposal per learned counsel was sent by the defendant on 20-9-2013 which proposal per learned counsel was modified suitably to the extent of first meeting held on 16-9-2013 which was replied on 1-10-2013.

The reply of the said e-mail, was made by the defendant on 20-10-2013. It is contended that the draft of the contract in the light of the agreed proposal was made and it was shared in order to have review and comments by the defendant. Plaintiff counsel contended that a draft contract was sent through e-mail on 29-11-2013 which was materially replied on 30-11-2013 with few minor observations. It is contended that at the same breath the defendant agreed that if the plaintiff is ready, the contract may be signed. The CFO defendant sent e-mail stating that the

change was agreed and requested slight modification in the payment clause which was accepted earlier on 16-9-2013 by the plaintiff. Learned counsel submitted that at this juncture signature on the contract is a formality as material terms have already been agreed and they began preparation pursuant to such negotiations and execution of the agreement in near future.

It is contended that subsequently the defendant and other officials refused to sign agreement on the pretext that it has been delayed by them (plaintiff) and on 27-12-2013 the defendant informed the plaintiff that they are no longer interested in pursuing to deal with them thus learned Counsel submitted that legal notice was sent on 7-1-2014 which was replied on 20-1-2014 thus the plaintiff has filed this suit for specific performance of the contract referred above and are willing to perform all parts of the contract.

It is the case of the plaintiff that such negotiation constitute binding contract, specific performance of which is inevitable, despite the fact that it is terminable unilaterally by the defendants. He argued that the nature of agreement is such that it is one of its kind and as such plaintiff would suffer irreparable loss unless it is granted as prayed. Learned counsel for the plaintiff in support of his arguments has amongst others relied upon the case-laws in the case of Damon Cia Naviera SA v. Hapag-Lloyd International SA reported in (1985) 1 AER and the case of Trimex International FZE Limited v. Vedanta Aluminium Limited reported in (2010) 3 Supreme Court Cases 1.

On the other hand learned counsel for the defendant has refuted the contention of the learned counsel for the plaintiff and submitted that the suit for specific performance is not maintainable as no binding, concluded and/or enforceable contract exists between the parties. Learned counsel for the defendant has relied upon section 10 of the Contract Act as it provides essentials of a binding contract and any ambiguity would adversely reflect about existence of such contract. Per learned counsel consensus ad idem was not reached.

He further relied upon Section 7 of the Contract Act which provides that acceptance must be absolute and the correspondence produced by the plaintiff does not indicate any absolute and unqualified acceptance by the defendant. He relied upon section 56(f) and (i) of the Specific Relief Act and also Section 21 of the Specific Relief Act.

He submitted that there was no consensus reached between the parties and the plaintiff itself abandoned all the proposals by his conduct whereby he delayed the finalization of any binding contract, hence, the defendant had no option except to move ahead insofar as achieving their object is concerned and such was achieved when they entered into a contract with HBL on 6-1-2014 which contract was executed and acted upon prior to the filing of this suit and passing of injunctive order on 28-1-2014. Learned counsel submitted that minor changes that were referred by the learned counsel for the plaintiff are not minor but very serious and fundamental. Be that as it may, such would not reflect as binding and concluded contract. Learned counsel further submitted that though such modification and clarification was requested, however it may be clarified that the defendant is a private limited company and its every contract is to be finally placed before the Board of Directors which exercise never been arisen and the plaintiff never came forward after 5-12-2013. He argued that even other-wise draft agreement relied upon by the plaintiff itself was a terminable contract unilaterally without assigning any reason and is thus hit by section 21(d) of Specific Relief Act.

Heard the learned counsel and perused the record. In order to ascertain as to whether there is any binding contract or otherwise it is necessary to look into correspondence relied upon by the plaintiff.

The first correspondence that was filed was of 20-9-2013 allegedly sent by the defendant in pursuance of the discussion of 16-9-2013, such

correspondence/proposal for sponsorship by which banking arrangements were to be provided and include installation of ATM, digital outdoor display, digital indoor display, on screen ads, vertical digital screens, space for BAL branding 15000 movie tickets etc. and that the bank to be considered exclusive banking partner and all matters are to be dealt with through the said bank. Such was replied with modification which is available as annexure-C. This e-mail dated 1-10-2013 provides an attached proposal as per discussion with a request to schedule a meeting.

The next correspondence was annexure-D to the plaint allegedly sent by the defendant which provides that the defendant had reviewed the proposal and they have clarified few points through the said e-mail. In the said e-mail the defendant categorically stated that they would not be able to give any commitment regarding the outlets, as that would be run by other entities and that no discounts or special offers would be possible for the same reason.

The next document available as annexure-E is an e-mail dated 29-11-2013 sent by the plaintiff. It is necessary to consider the contents of the e-mail as it is of great importance.

"Dear Mr. Saleemullah Shaikh,

We have put together a contract for our sponsorship arrangement based on our discussions during, the last meeting held at the Place. Please find attach the draft of the contract for your review. Please let me know if you have any feedback which we can discuss incorporate to finalize the contract."

The next important document is annexure-F which is an e-mail sent by the defendant on 30-11-2013 which provides certain significant changes in the draft agreement. Such Changes as suggested are as under:--

"Dear Mr. Zain:

We have a few minor observations:-

(1) Clause 1: Although the agreement shall expire after thirteen months of execution, the period covered thereby shall be twelve months.

(2) Clause 2(b): "TV" ads will actually be "In-cinema" ads.

(3) Clause 4(C): Collection services shall be required five times a week (Mondays to Fridays). Plus, as we are currently availing this service free-of-charge, we were expecting the same from Bank Alfalah. However, we would request you to slash the mentioned amount by 50% to make it a flat Rs.500, per service trip irrespective of the amount.

(4) Clause 4(i): In"---ticket payment options for Bank's "---explanation of the words "for Bank's" is required.

(5) Clause 5: 50% advance would be required at signing of agreement, so we are pushing the 20% amount only 30 days earlier. The balance 50% to be paid in three equal quarterly installments (of Rs.3 Million each) so that the last payment shall be made three months before the expiry of the agreement

The rest is agreed.

If ready, we can sign the revised agreement on Monday December 2 and proceed.",

The next e-mail is at annexure-G sent by the defendant to the plaintiff which provides as under:--

"Dear Mr.Zain

As discussed over the phone yesterday we agree except for the slight change that is required in the payment clause. Subject to that change, we can now go ahead with signing the agreement

Regards, Saleem"

Subsequently on 5-12-2013 the last e-mail that was sent by the plaintiff was as under:--

"Dear Saleem,

We agree to the terms of payment proposed by you and have incorporated the same in the agreement along with the revised clause 4(c) linking the discount on cash collection charges with minimum deposit in current account which Nueplex will maintain with Bank Alfalah.

We will print the agreement we can schedule a signing day for both parties.

Best Regards,
Zain Bhatti
Manager-ADCs."

Significantly since last referred e-mail i.e. 5-12-2013 there was a complete silence until 28-12-2013 though it is claimed by the plaintiff that they have made contact, however no such e-mail is available on record. The reason for this silence assigned by the defendant is that during the month of December 2013 there was ban on display of Indian movie and as such considering their interest the plaintiff kept quiet and stayed away.

Although they have stated in their email dated 28-12-2013 that in view of the correspondence referred above they have mobilized ATM and POS terminal to be deployed at the place however yet in this Email it is stated that they would like to execute "other" terms of the agreement as early as possible and further suggested that they should meet on "Monday" (30-12-2013) to update status on all areas of their agreement.

With regard to the promise and acceptance of the agreement it is pertinent to note that in order to convert a proposal into a promise, the acceptance must be absolute and unequivocal and should be expressed in some usual or reasonable manner.

A deep analysis of last two emails of plaintiff would show that in fact there is no collusive or binding contract between the parties as some terms of the agreement were yet to be executed and they were not aware regarding the status on certain areas of the agreement. However, be that as it may, the plaintiff himself has provided a copy of draft agreement that is required to be executed subject to email of 28-12-2013 and the same is available at Page 87 of Part I. At the very outset it provides clause under heading of "Commencement of the Agreement" which stipulates that the duration of the agreement is only 13 months from the date of execution.

It further provides termination clauses as 8.1 to 8.4. Clause 8.1 provides that either party may terminate this agreement with three months written notice in advance and without assigning any reason. Clause 8.2 provides conditional termination on account of default of either party pursuant to commitments made under the alleged agreement. In presence of Clause 8.1 referred above, clause 8.2 loses its value and utility when the parties were given the option to terminate the agreement with three months written notice without assigning any reason however the only advantage one can have through Clause 8.2 is that the period is curtailed

to 30 days in clause 8.2 when it concerns with default of party. Such clause would thus conclude that even if "correspondence" considered to be a conclusive and binding agreement, it is determinable that is to say that in terms of sections 21(d) and 56 of the Specific Relief Act the specific performance of such agreement is a big question under the law. No doubt the termination is subject to parties' right accruing prior to the date of such termination but such rights are squarely with reference to any wrongful termination that may lead to claim damages but certainly the specific performance of such agreements are to be dealt with strictly in accordance with law as referred above. A perusal of the draft agreement, as relied upon by the plaintiff himself, leads to the fact that such agreements are beyond the scope of specific performance.

Needless to mention that a contract is a result of a proposal and its unqualified acceptance. If the acceptance contains material variation of the terms of either or even if the proposal or counter proposal provides a room that the parties may like to negotiate or sit to resolve certain terms, the agreement upon which the contract can be founded will be missing. In this regard learned counsel for the defendant has relied upon the case of Commissioner Mekran v. Haji Abdul Waheed reported in 2012 CLD 1659, Pakistan v. MCB reported in 1982 CLC 2495, Gaddar Mal v. Tata Industrial Bank reported in AIR 1927 Allahabad 407, Al-Huda Hotels and Tourism v. Paktel Limited reported in 2002 CLD 218.

In the last reported case of Al-Huda Hotels (Supra) the learned Single Judge of this Court has held that in order to convert proposal into a contract the acceptance to the proposal must be absolute and unqualified consensus ad idem between the parties with regard to all terms and the contract must be shown to exist. Qualified acceptance of proposal or acceptance of proposal with variation is no acceptance. It was further held that a mandatory injunction cannot be granted by way of interim relief as grant of such relief would tantamount to a grant of final relief which would seriously prejudice the defendants.

Relying on the contract by Cheshire and Fifoot 10th Edition at page 186, the learned Single Judge made reliance that any document or memorandum agreed to by the parties subject to this condition that a formal agreement would be executed does not become legally binding contract unless such is lifted by a subsequent act of the parties.

Similar view was also taken by another learned Judge of this Court in the case of Muhammad Matloob v. Jamshed Marker reported in PLD 2006 Karachi 523.

In so far as agreements/contracts with termination clauses are concerned any such agreements/contracts which are breached by one party could not be subjected to specifically performed. Such agreements are to be seen within the frame of section 21 of the Specific Relief Act which provides a mechanism in respect of those contracts which are not specifically enforceable; one such condition that is available in section 21 is (d) which says that the contracts which are in the nature of revocable cannot be enforced. No doubt a breach of such agreement has been pleaded by the plaintiff however when such conditions as available in section 21 are applied to the instant case, its breach apparently cannot be prevented by way of passing any injunctive order. It was held in the case of Rajasthan Breweries Limited v. Stroh Brewery Company reported in AIR 2000 Delhi 450 as under:--

"20. Even in the absence of specific clause authorizing and enabling either party to terminate the agreement in the event of happening of the events specified therein, from the very nature of the agreement, which is private commercial transaction, the same could be terminated even without assigning any reason by serving a reasonable notice. At the most, in case ultimately it is found that termination was bad in law or contrary to the terms of the agreement or of any understanding between the parties or for any other reason, the remedy of the appellants would be to seek compensation for wrongful termination but not a

claim for specific performance of the agreements and for that view of the matter learned Single Judge was justified in coming to the conclusion that the appellant had sought for an injunction seeking to specifically enforce the agreement. Such an injunction is statutorily prohibited with respect of a contract, which is determinable in nature."

Similarly in the case of D.R. Sondhi and others v. Hella Kg Hueck and Co. reported in (Suppl.) Arb LR 502 (Delhi) it has been held as under:--

"16….. Therefore, all revocable deeds and voidable contracts may fall within "determinable" contracts and the principle on which specific performance of such an agreement would not be granted in that the Court will not go through the idle ceremony of ordering the execution of a deed or instrument, which is revocable at will of the executant. Specific performance cannot be granted for a terminable contract."

In the case of Pakistan State Oil Company Limited v. Federation of Pakistan (2010 CLC 1843) learned Single Judge of this Court has observed as under:--

"... The relief by way of an injunction whether temporary or permanent is in the discretion of the Court. Under section 21 of the Specific Relief Act, it is clearly mentioned that a contract cannot be specifically enforced which in its nature is revocable and or a contract for non-performance of which compensation of money is an adequate relief. Similarly, section 56 of the Specific Relief Act clearly provides that an injunction cannot be granted to prevent breach of a contract, the performance of which would not be specifically enforced. Therefore, the plaintiff has no lawful justification to force the defendant No.4 for a reluctant relationship.

…. It is clear from the aforesaid section that if plaintiff deems that the defendant No.4 has committed breach of an obligation resembling those created by contract has been incurred and has not been discharged, the plaintiff may claim compensation subject to explanation attached with this section that in estimating the loss or damage arising from a breach of contract, the means which existed of remedying the inconvenience caused by the non-performance of the contract must be taken into account and such compensation is not to be given for any remote and indirect loss or damage sustained by reason of the breach. The similar provision is available under section 21 of the Specific Relief Act, which provides under clause (a) that a contract cannot be specifically enforced for the non-performance of which compensation is an adequate relief and another clause (d) further provides that a contract which in its nature is revocable can also not be specifically enforced. Since the license agreements, agency/ dealership agreements and franchising agreements are revocable in their nature, therefore, at the best, the aggrieved party can claim damages/compensation for its alleged breach subject to proof.

.... That existence of prima facie case, likelihood of irreparable loss or legal injury for non-grant of temporary injunction and the balance of convenience, all three requisite/essential ingredients, must be fulfilled before injunction can be granted in favour of a party and absence of anyone of these essential ingredients would not warrant grant of injunction. The Court while granting injunction should or ought to be of the view that plaintiff applying for injunction was in all probability likely to succeed in the suit by having a decision in his favour and that his case was not likely to fail on account of some apparent defects. There is no logical justification or rationale in which the plaintiff is entitled to claim injunction whereby the defendant No.4 may be restrained from entering into dealership agreement with the defendant No.5 or vice versa the defendant No.5 may be restrained from entering into dealership agreement with defendant No.4. In order to obtain an interlocutory injunction, it is not enough for the plaintiff to show that he has a prima facie case. He must further show that (1) in the event of withholding the relief of temporary injunction he will suffer an irreparable injury;

and (2) in the event of his success in the suit in establishing his alleged legal right, he will not have the proper remedy in being awarded adequate damages… … The distinction between a void and voidable agreement is that, which is void has never had any legal existence and can therefore, never be confirmed; while that which is voidable is valid as long as it is not impeached by the party who has in his power to avoid it. But, though valid, a contract so long as it is voidable cannot be specifically enforced."

The similar view was taken by Mr. Justice Rasheed Ahmad Razvi, as he then was, in the case of Royal Foreign Currency v. The Civil Aviation Authority reported in 1998 CLC 374 when he observed that such contracts are revocable after giving 30 days' notice and as such no prima facie case was established when the nature of the agreement is revocable.

In the case of Messrs Pakistan Associated Construction Ltd. v. Asif H. Kazi reported in 1986 SCMR 820 the Hon'ble Supreme Court has held as under:--

"We find that what the petitioner seeks ad interim is resurrection of the contract in its full form and effect and permission to perform it. The main reliefs sought in the suit are to declare that "the impugned notice of cancellation, dated 18-7-1985 is null and void" and "to appropriately extend the period of Contract". There are more than one valid reason why prima facie interim relief keeping in abeyance the cancellation of Contract or of extending the period of its performance, or of allowing access to men and material at site could not be granted by Court. The statutory constrains are to be found in section 21, clauses (a) and (d) and section 56, clause (f) of Specific Relief Act."

The same view was taken by the Hon'ble Supreme Court in the case of Obaidullah and another v. Habibullah reported in PLD 1987 SC 835 wherein it was held as under:-

"A perusal of the above quoted section 21 of the Act indicates that the contracts specified in clauses (a) to (h) cannot be specifically enforced. The case in hand is hit by clauses (a), (b), (c), (d), (e) and (g). It cannot be denied that for a breach of a contract of employment in the absence of any constitutional guarantee or other statutory guarantee of continuity, compensation in money is an adequate relief in case of non-performance of a contract. Similarly the contract of employment involves numerous details which are dependent on personal qualifications or violation of the parties and, therefore, the instant case is also hit by clause (b) of section 21 of the Act. There is nothing on record to indicate what were the terms of the employment agreed to between the petitioners' father and the Public Health Engineering Department and thus the present case is hit by clause (c) of above section. It may further be observed that a contract of employment as observed hereinabove, in the absence of any constitutional guarantee or any other statutory guarantee, is revocable and thus the petitioners' case was hit by clause (d) of Section 21 of the Act as well. It may also be observed that the alleged contract was entered into between the petitioners' father and the S.D.O. of the Public Health Engineering Department. Prima facie S.D.O. has no authority to employ any person on behalf of the Department through an agreement of the nature in issue as he holds the above office in rust. The case in hand is also hit by above-quoted clause (e) of the aforesaid section. Lastly, the proposed contract of employment was for an indefinite period longer than three years and thus it is hit by clause (d) of section 21 of the Act."

The significant point that is also required to be determined while considering the injunction application is as to whether the plaintiff has presented a prima facie case and that the balance of inconvenience is in its favour. Perusal of the pleadings of the plaint shows that the only progress that has been made pursuant to the alleged contract was the mobilization of ATM and POS terminals. Such ATM and POS terminals are standard machines and in any case do not constitute a fact which could enable the plaintiff to persuade and present a prima facie case for the grant of injunction. These pleadings do not lead to the

conclusion that the plaintiff would suffer an immeasurable loss which cannot be compensated. One of the significant part which is to be considered is that after 5-12-2013 the plaintiff has not even contracted with defendant. The contention of the learned counsel for defendant that plaintiff was not interested after the ban on Indian movies may have a significant bearing as they have not replied or denied such assertion of the defendant's counsel even in argument. No material correspondence between 5th to 28th December, 2013 has been placed to deny such, assertion. Considering the nature of agreement, this is a long period and each day would count a lot and it amounts to resurrection of alleged agreement.

Needless to mention that section 21(a) of the Specific Relief Act provides that a contract for non-performance of which compensation in money is an adequate relief cannot be specifically enforced, therefore, even in a situation where the Court finds that there was a binding contract between the parties the plaintiff would certainly fail in establishing a prima facie case and to establish the losses which could not be measured in terms of money.

Learned counsel for the plaintiff has relied upon certain English case-laws i.e. the case of Damon Cia Naviera SA and the case of Trimex International FZE Limited (Supra) where the Courts had granted order for specific performance of revocable contracts. These English case laws are distinguishable firstly because in the instant case the contract has already been awarded to the third party who is operating and the question of maintenance of status quo would not in any case help the plaintiff. Secondly the contracts which are the subject matter of the English case laws referred by the learned counsel for the plaintiff were not unilaterally revocable. Clause 8.1 provides unconditional privilege to the defendants to revoke and terminate the agreement/contract without even assigning any reason that is even a binding contract could be terminated although it was only for 13 months.

Hence in view of the foregoing facts and circumstances, no case is made out for grant of injunction as prayed for hence the application under Order XXXIX, Rules 1 and 2, C.P.C. being C.M.A. No.1085 of 2014 is dismissed and C.M.A. No. 1680 of 2014 under Order XXXIX, Rule 4, C.P.C. in view of the above order has become infructuous and is disposed of accordingly.

SL/B-8/Sindh Application dismissed.