

IN THE HIGH COURT OF SINDH AT KARACHI

HCA No.365 of 2016

Present:

Mr. Justice Irfan Saadat Khan

Mr. Justice Fahim Ahmed Siddiqui



J U D G M E N T

Date of hearing: 15.01.2020.

Appellant: M/s. Johnson & Phillips (Pakistan) Limited through Mr. Furqan Ali, Advocates.

Respondent No.1: EFU General Insurance Limited through Mr. Naeem Ahmed, Advocates.

Respondent No.2: Hanilay & Company (Pvt.) Limited through Mr. Sultan A. Allana, Advocate.

**IRFAN SAADAT KHAN, J.** This appeal has been filed on the ground that the learned Single Judge of this Court after observing in his judgment dated 18.10.2016 passed in Suit No.1417 of 2007 that the Court lacks jurisdiction in the matter, rather than returning the plaint under Order 7 Rule 10 CPC has out-rightly dismissed the same.

It is the contention of the learned counsel for the appellant that the learned Single Judge was not justified in out-rightly dismissing the suit whereas, in his view, when the learned Single Judge has opined that he lacks jurisdiction he should have directed the office to return the plaint to enable the appellant to file the plaint before the appropriate forum, which since has not been done, hence the judgment of the learned Single Judge is not in accordance with law and may be set aside.

Learned counsel for the respondents, on the other hand, have supported the judgment of the learned Single Judge, however, could not controvert the fact that when the learned Single Judge has come to the view that he lacks jurisdiction what should be the proper *modus operandi* in this behalf.

We have heard all the learned counsel at considerable length and have perused the record.

We are of the view that since a wrong forum has been chosen by the appellant for initiating the proceedings, in our view, rather than out rightly dismissing the suit the learned Single Judge should have returned the plaint under Order 7 Rule 10 CPC and direct the office to return the plaint to the appellant to enable them to approach the appropriate forum in this behalf, which definitely would be subject to the limitation involved in the matter.

With the above directions the instant High Court Appeal stands disposed of.

Karachi:  
Dated: 15.01.2020.

S.Akhtar

JUDGE

JUDGE

*Original  
filed  
on 16/1/2020  
S.*