

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

High Court Appeal No. 356 of 2021

<i>Date</i>	<i>Order with signature of Judge</i>
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Hearing (Priority) Case

1. *For orders on office objection.*
2. *For hearing of main case.*
3. *For hearing of CMA No.2586/2021.*

10.01.2022:

Mr. Taha Ali Zai, advocate for the appellant.

Mr. Ali Almani, advocate for the respondent No.1.

Mr. Haq Nawaz Talpur, DAG.

Learned counsel for the appellant has filed rejoinder to the Counter Affidavit on behalf of respondent No.1 to the application under Order 41 Rule 5 read with Order 39 Rules 1 & 2 and Section 151 CPC (CMA No.2586/2021) along with annexures, which are taken on record, copy whereof has been supplied to the learned counsel for respondent No.1, who requests for time to examine the same. Learned counsel for the appellant however, submits that during pendency of instant High Court Appeal, on an application filed by the appellant before the learned Single Judge seeking modification of ad-interim order dated 10.12.2021, which has been assailed through instant High Court Appeal, the said order has been modified, whereas, another application of the appellant for impleading the appellant as party in the subject suit, is still pending disposal. It has been further submitted by the learned counsel for appellant that appellant was not impleaded by the respondent No.1 as party in the subject Suit No.2940/2021 inspite of the fact that the appellant is a necessary party, whereas, the impugned order has adversely affected the right and interest of the appellant. It has, however, been submitted by the learned counsel that the appellant will be satisfied and will not press instant High Court Appeal if the

directions may be issued to the learned Single Judge to pass appropriate order on the pending applications filed by the appellant as well as on the injunction application filed by the respondent at an early date in accordance with law.

Learned counsel for the respondent submits that respondent has no notice to such modification of the impugned order passed as argued by the learned counsel for the appellant, however, does not oppose disposal of instant High Court Appeal in the aforesaid terms, provided, such disposal will be without prejudice to the rights and interest of the respondent.

Since, no final order has been passed on the injunction application by the learned Single Judge, therefore, by consent, instant High Court Appeal stands disposed of with the directions to both the learned counsel for the parties to appear before the learned Single Judge, who may pass appropriate order on the injunction application filed by the respondent, including the applications filed on behalf of the appellant, after hearing the learned counsel for the parties at an early date, preferably, within a period of four (04) weeks from the date of hearing such application(s).

Instant High Court Appeal stands disposed of in the above terms along with listed application.

JUDGE

JUDGE

Nadeem