

ORDER SHEET
THE HIGH COURT OF SINDH KARACHI

J.C.M. No. 29 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of CMA No.237 of 2019.
2. For hearing of CMA No.104 of 2020.
3. For hearing of Main Petition.

19-01-2023

M/s. Mehmood Y. Mandviwalla and Hassan Mandviwalla, Advocates for the Petitioner along with Mr. Hassan Ali, Advocate.

Mr. Salman Hamid, Advocate for the Respondent No.1 along with Syed Irfan Ali, President IDBL.

Applicant; Shakeel Ahmed is present in person.

Dr. Ch. Muhammad Iqbal, Official Assignee.

M/s. Khaleeq Ahmed, D.A.G. and Ms. Mehreen Ibrahim, Assistant Attorney General for Pakistan.

State Bank of Pakistan has filed this winding up petition under Section 49 of the Banking Companies Ordinance, 1962, against the Industrial Development Bank Limited of Pakistan [IDBL] arraying Securities and Exchange Commission of Pakistan [SECP] as the necessary and proper party along with Federation of Pakistan. While this petition was pending for its consequential effect, an application under Order I Rule 10 CPC [CMA No.104 of 2020] was filed by one Shakeel Ahmed son of Noor Ahmed Abbasi. It is his case that he is a retired officer of the Respondent No.1 and some litigation in respect of his post-retirement benefits is pending before Lahore High Court and the Supreme Court of Pakistan and hence in consequence of such cases, he ought to have been joined in the proceedings of these winding up affairs. He further submits that under Order I Rule 10 (2) CPC, his presence before the Court is necessary to adjudicate upon all questions arising out of the case in hand. Sub-rule (2) of Rule 10 of Order I CPC suggests that the Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court to be just, order that the name of any party improperly joined,

whether as Plaintiff or Defendant, be struck out, and that the name, of any person who ought to have been joined, whether as Plaintiff or Defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

I am afraid that insofar as the post-retirement benefits are concerned, it is not the subject matter of this winding up hence such questions of retirement benefits cannot arise out of the proceedings in hand. He is neither a necessary nor proper party who could assist this Court at this stage. As far as the questions involved in these proceedings are concerned which are nothing other than for the purposes of winding up of the Respondent No.1; only IDBL and the SECP have been arrayed, which are necessary and proper parties. The Federation of Pakistan through the Finance Secretary has also been arrayed and the D.A.G. is present to assist this Court. The scope of this petition is confined only to the extent of winding up and it cannot be spilled over to the affairs of the post-retirement benefits. I may add that in case such petition would not reach its consequential fate, the claim of the Intervener in relation to his post-retirement benefits will not be prejudiced. With this observation, the application under Order I Rule 10 CPC [CMA No.104 of 2020] merits no consideration and is dismissed.

To come up on **02-02-2023**.

SHABAN*

JUDGE