

*Order Sheet*  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
**HCA No.331 of 2016**

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
------	-----------------------------------

Hearing of case.

1. For order on office objection
2. For hearing of Main case

**09.02.2023**

Mr. Muhammad Ali Waris Lari, Advocate for the Appellant.  
 Mr. Aijaz Shirazi, Advocate for Respondent No.2.

.-.-.-.-.-

**Irfan Saadat Khan, J.** This High Court Appeal (HCA) has been filed impugning the order dated 08.08.2016, which was announced on 11.8.2016.

At the very outset the counsel appearing for the Respondent stated that this High Court Appeal has been filed with unclean hands by concealment of facts and as such the appellant is guilty of practicing fraud upon the court; hence the appeal is liable to be dismissed with costs.

Perusal of the record reveals that previously also HCA bearing No.319/2016, against the same order, which is impugned in the instant HCA, was filed by the present appellant. The appellant during pendency of the earlier HCA, filed the present appeal (331 of 2016) on 06.10.2016. The office, however, raised objections with regard to the maintainability of the present appeal as the earlier High Court Appeal against the same order is pending. Thereafter on 06.12.2016, the earlier HCA No. 319 of 2016 was withdrawn as the appellant did not wish to proceed further with the same.

Record further reflects that in the earlier appeal, the office had also raised various objections, inter alia, regarding maintainability of the appeal on the point of limitation. From the record, it also transpires that in HCA 319/2016, the impugned order annexed with the memo of appeal shows that the copy of the said order was applied on 16.8.2016, fee was estimated on 25.8.2016 and copy was made ready on the same date i.e. 25.8.2016; whereafter HCA No.319/2016 was filed on 17.09.2016, seemingly it was barred by two days. However, since the appellant withdrew that matter therefore the issue with regard to limitation did not arise. In HCA No.331/2016 the date for applying

copy was the same i.e. 16.8.2016; whereas fee was estimated on 21.9.2016 and copy was made ready on the same date i.e. 21.9.2016 and thereafter the same was filed on 06.10.2016. It is noted that the appellant filed previous HCA No.319/2016 on the basis of the copy obtained on 25.8.2016, and again in respect of the same set of order managed to obtain the date of the supply of the copy as 21.9.2016 and thereafter, without bringing the same in the knowledge of the Court, filed HCA No.331/2016 on the basis of the same order, which clearly shows that the subsequent HCA filed by the appellant by way of concealment of facts. Moreover, the appellant counsel while withdrawing the earlier appeal did not disclose the fact to the Court that he has already filed another appeal against the same order.

In our view, it was the incumbent duty of the appellant and his counsel to have informed the Court, while withdrawing the earlier appeal, the circumstances, which compelled him to file fresh appeal on the same facts, grounds and against the same impugned order.

The above fact clearly reflects that the counsel when confronted with the question of maintainability, as raised by the office, in the earlier appeal being time barred, he obtained another certified copy having different issuance of date and filed present high court appeal. It appears that the appellant in order to bring the case within the time limit has obtained second certified copy on the same application on the basis of which they have already obtained certified copy, which under the law he is not entitled to. The counsel failed to give any plausible explanation in this regard. Such conduct reflects malafide on the part of the appellant, which warrants strict action against him.

In the above circumstances, this appeal is dismissed in limine by imposing cost of Rs.25,000/- on the appellant, to be deposited in the High Court Clinic account within seven days from today. Needless to state that if the said amount is not deposited the same would be recovered from the appellant, as provided under the law.

JUDGE

JUDGE