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<html xmlns:o="urn:schemas-microsoft-com:office:office"
xmlns:w="urn:schemas-microsoft-com:office:word"
xmlns="http://www.w3.org/TR/REC-html40">

<head>
<meta http-equiv=Content-Type content="text/html; charset=windows-1252">
<meta name=ProgId content=Word.Document>
<meta name=Generator content="Microsoft Word 9">
<meta name=Originator content="Microsoft Word 9">
<link rel=File-List href="./Cr.Rev.D-91-07%20surety_files/filelist.xml">
<title>                </title>
<!--[if gte mso 9]><xml>
  <o:DocumentProperties>
    <o:Author>Pathan</o:Author>
    <o:Template>Normal</o:Template>
    <o:LastAuthor>Administrator</o:LastAuthor>
    <o:Revision>2</o:Revision>
    <o:TotalTime>3</o:TotalTime>
    <o:LastPrinted>2008-02-13T05:37:00Z</o:LastPrinted>
    <o:Created>2008-04-21T06:30:00Z</o:Created>
    <o:LastSaved>2008-04-21T06:30:00Z</o:LastSaved>
    <o:Pages>3</o:Pages>
    <o:Words>440</o:Words>
    <o:Characters>2510</o:Characters>
    <o:Company>H C S</o:Company>
    <o:Lines>20</o:Lines>
    <o:Paragraphs>5</o:Paragraphs>
    <o:CharactersWithSpaces>3082</o:CharactersWithSpaces>
    <o:Version>9.2720</o:Version>
  </o:DocumentProperties>
</xml><![endif]><!--[if gte mso 9]><xml>
  <w:WordDocument>
    <w:DrawingGridHorizontalSpacing>3.9 pt</w:DrawingGridHorizontalSpacing>

    <w:DisplayHorizontalDrawingGridEvery>2</w:DisplayHorizontalDrawingGridEvery>
    <w:DisplayVerticalDrawingGridEvery>2</w:DisplayVerticalDrawingGridEvery>
  </w:WordDocument>
</xml><![endif]><-->
<style>
<!--
/* Font Definitions */
@font-face
    {font-family:"Roman 10cpi";
    panose-1:0 0 0 0 0 0 0 0 0 0;
    mso-font-charset:0;
    mso-generic-font-family:modern;
    mso-font-format:other;
    mso-font-pitch:fixed;
    mso-font-signature:3 0 0 0 1 0;}

@font-face
    {font-family:"Draft 10cpi";
    panose-1:0 0 0 0 0 0 0 0 0 0;
    mso-font-charset:0;
    mso-generic-font-family:modern;
    mso-font-format:other;
    mso-font-pitch:fixed;
    mso-font-signature:3 0 0 0 1 0;}

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/* Style Definitions */
p.MsoNormal, li.MsoNormal, div.MsoNormal
    {mso-style-parent:"";
    margin:0in;
    margin-bottom:.0001pt;
    mso-pagination:widow-orphan;
    font-size:10.0pt;
    mso-bidi-font-size:12.0pt;
    font-family:"Draft 10cpi";
    mso-fareast-font-family:"Times New Roman";
    mso-bidi-font-family:"Times New Roman";
    font-weight:bold;
    mso-bidi-font-weight:normal;}

h1
    {mso-style-next:Normal;
    margin:0in;
    margin-bottom:.0001pt;
    text-align:justify;
    mso-pagination:widow-orphan;
    page-break-after:avoid;
    mso-outline-level:1;
    font-size:10.0pt;
    mso-bidi-font-size:12.0pt;
    font-family:"Draft 10cpi";
    mso-font-kerning:0pt;
    mso-bidi-font-weight:normal;}

h2
    {mso-style-next:Normal;
    margin:0in;
    margin-bottom:.0001pt;
    text-align:center;
    mso-pagination:widow-orphan;
    page-break-after:avoid;
    mso-outline-level:2;
    font-size:12.0pt;
    font-family:Arial;
    mso-bidi-font-family:"Times New Roman";
    font-weight:normal;}

h3
    {mso-style-next:Normal;
    margin:0in;
    margin-bottom:.0001pt;
    text-align:center;
    mso-pagination:widow-orphan;
    page-break-after:avoid;
    mso-outline-level:3;
    font-size:14.0pt;
    mso-bidi-font-size:12.0pt;
    font-family:Arial;
    mso-bidi-font-family:"Times New Roman";
    font-weight:normal;
    text-decoration:underline;
    text-underline:single;}

p.MsoHeader, li.MsoHeader, div.MsoHeader
    {margin:0in;
    margin-bottom:.0001pt;
    mso-pagination:widow-orphan;

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        tab-stops:center 3.0in right 6.0in;
        font-size:10.0pt;
        mso-bidi-font-size:12.0pt;
        font-family:"Draft 10cpi";
        mso-fareast-font-family:"Times New Roman";
        mso-bidi-font-family:"Times New Roman";
        font-weight:bold;
        mso-bidi-font-weight:normal;}
p.MsoFooter, li.MsoFooter, div.MsoFooter
    {margin:0in;
    margin-bottom:.0001pt;
    mso-pagination:widow-orphan;
    tab-stops:center 3.0in right 6.0in;
    font-size:10.0pt;
    mso-bidi-font-size:12.0pt;
    font-family:"Draft 10cpi";
    mso-fareast-font-family:"Times New Roman";
    mso-bidi-font-family:"Times New Roman";
    font-weight:bold;
    mso-bidi-font-weight:normal;}
p.MsoBodyText, li.MsoBodyText, div.MsoBodyText
    {margin:0in;
    margin-bottom:.0001pt;
    text-align:justify;
    line-height:200%;
    mso-pagination:widow-orphan;
    font-size:10.0pt;
    mso-bidi-font-size:12.0pt;
    font-family:"Draft 10cpi";
    mso-fareast-font-family:"Times New Roman";
    mso-bidi-font-family:"Times New Roman";
    font-weight:bold;
    mso-bidi-font-weight:normal;}
p.MsoBodyTextIndent, li.MsoBodyTextIndent, div.MsoBodyTextIndent
    {margin:0in;
    margin-bottom:.0001pt;
    text-align:justify;
    text-indent:.5in;
    line-height:200%;
    mso-pagination:widow-orphan;
    font-size:10.0pt;
    mso-bidi-font-size:12.0pt;
    font-family:"Draft 10cpi";
    mso-fareast-font-family:"Times New Roman";
    mso-bidi-font-family:"Times New Roman";
    font-weight:bold;
    mso-bidi-font-weight:normal;}
@page Section1
    {size:8.5in 13.0in;
    margin:1.7in 1.0in 1.0in 2.5in;
    mso-header-margin:.5in;
    mso-footer-margin:.5in;
    mso-title-page:yes;
    mso-even-header:url("./Cr.Rev.D-91-07%20surety_files/header.htm") eh1;
    mso-header:url("./Cr.Rev.D-91-07%20surety_files/header.htm") h1;
    mso-paper-source:0;}
div.Section1

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        {page:Section1;}
/* List Definitions */
@list l0
    {mso-list-id:449278293;
    mso-list-type:hybrid;
    mso-list-template-ids:1892859932 151191256 67698713 67698715 67698703
67698713 67698715 67698703 67698713 67698715;}
@list l0:level1
    {mso-level-tab-stop:83.25pt;
    mso-level-number-position:left;
    margin-left:83.25pt;
    text-indent:-23.25pt;}
@list l1
    {mso-list-id:1108964005;
    mso-list-type:hybrid;
    mso-list-template-ids:603237542 -1932243934 67698713 67698715 67698703
67698713 67698715 67698703 67698713 67698715;}
@list l1:level1
    {mso-level-tab-stop:120.75pt;
    mso-level-number-position:left;
    margin-left:120.75pt;
    text-indent:-.25in;}
@list l2
    {mso-list-id:1940529631;
    mso-list-type:hybrid;
    mso-list-template-ids:1171922324 -1376746830 67698713 67698715
67698703 67698713 67698715 67698703 67698713 67698715;}
@list l2:level1
    {mso-level-tab-stop:120.75pt;
    mso-level-number-position:left;
    margin-left:120.75pt;
    text-indent:-.25in;}
ol
    {margin-bottom:0in;}
ul
    {margin-bottom:0in;}
-->
</style>
</head>

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<body lang=EN-US style='tab-interval:.5in'>

<div class=Section1>

<p class=MsoNormal> </p>

<h1 align=center style='text-align:center'> Cr.Rev. No.D-91 of 2007<o:p></o:p></h1>

<p class=MsoNormal align=center style='text-align:center'><![if !supportEmptyParas]> <![endif]><o:p></o:p></p>

<![if !supportEmptyParas]> <![endif]><o:p></o:p></p>

<![if !supportLists]>1. <![endif]>For
Katcah Peshi.</h2>

<![if !supportLists]>2. <![endif]>For
hearing of MA-2505/2007</h2>

<![if !supportEmptyParas]> <![endif]><o:p></o:p></p>

<![if !supportEmptyParas]> <![endif]><o:p></o:p></p>

<![if !supportEmptyParas]> <![endif]><o:p></o:p></p>

Present:<o:p></o:p></p>

Mr.Justice Dr. Rana Muhammad Shamim & <o:p></o:p></p>

</u>Mr
.Justice
Syed Pir Ali Shah
.<o:p></o:p></u></p>

<![if !supportEmptyParas]> <![endif]><o:p></o:p></p>

<![if !supportEmptyParas]> <![endif]><o:p></o:p></p>

>Date

<p class=MsoNormal style='text-align:justify'><![if !supportEmptyParas]> <![endif]><o:p></o:p></p>

<p class=MsoNormal style='text-align:justify;line-height:200%'><u>DR.RANA MUHAMMAD SHAMIM, J.</u> The learned counsel for the applicant submits that the applicant stood surety for accused Qurban who was declared absconder. Consequently, the bail bond was cancelled and notice to surety was ordered. He submits that no such notice was received by the surety. It appears from the case diaries that subsequently the absconding accused Qurban was arrested, tried and acquitted. The forfeiture of surety of the applicant was not in his knowledge nor he was informed by the trial court about such forfeiture. The surety came to know only when the accused for whom he stood surety was acquitted by the trial court. He received a writ of attachment wherefrom he got knowledge about the forfeiture of his surety/property. The issuance of writ of attachment was ordered on 6.12.2004. In compliance of the trial court order dated 6.12.2004, the Mukhtiarkar issued proclamation for the auction of the property in question on 1.10.2007. The learned counsel for the applicant submits that no opportunity of hearing was given to the surety. He further submits that since the absconding accused Qurban was afterwards arrested, tried and acquitted by the trial court, forfeiture of bail bond and writ of attachment was uncalled for.<o:p></o:p></p>

<p class=MsoNormal style='text-align:justify'><![if !supportEmptyParas]> <![endif]><o:p></o:p></p>

<p class=MsoBodyTextIndent style='text-indent:0in'>2. Learned Assistant Advocate General concedes to the extent that case be remanded to the trial court for issuance of proper notice to the surety and further proceedings in accordance with law.<o:p></o:p></p>

<p class=MsoNormal style='text-align:justify'><![if !supportEmptyParas]> <![endif]><o:p></o:p></p>

<p class=MsoBodyText>3. We have heard both the learned counsel for the applicant and the learned Assistant Advocate General. Admittedly no show-cause notice was served upon him and he had no knowledge of the absconsion of the accused thereafter accused was arrested, trial conducted and consequently he was acquitted. In our humble

view, there is no justification to remand the case back to the trial court and the applicant again feels uncalled for sufferings. We, therefore, allow this application, set aside the order of the learned trial Court regarding forfeiture of the surety and the writ of attachment. We further hold that the learned trial Court has committed illegality and irregularity for not issuing show-cause notice to the surety as per law, which is mandatory in nature and violation of it, is not condonable. We further direct that surety documents be returned to the applicant after proper verification.

N.M.