

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

H.C.A. No.274 of 2021

[Khurram Ahmed Mumtaz v. Mst. Unza Naz Khurram & others]

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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**Present: - Muhammad Shafi Siddiqui
Jawad Akbar Sarwana, JJ**

Hearing case (priority)

1. For orders on office objection/reply at "A".
2. For hearing of main case.
3. For hearing of CMA No.2278/2021 (stay).
4. For orders on M.I.T Report dated 04.12.2021.

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Dated 24.10.2023

Mr. Mujtaba Sohail Raja, Advocate for the Appellant.

M/s. Muhammad Maaz Waheed and Muhammad Usman Khan,
Advocates for Respondent No.1.

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We have heard learned counsels and perused the material available on record.

In substance, the suit for declaration and injunction was filed which also includes some of the assets held in the name of defendant No.1 as benami, though seriously opposed by defendants No.1 and 2. In relation to such assets moveable/immovable and valuables the injunction applications were pending and there is no dispute that only to the extent of locker, the status-quo order was passed on 29.11.2021, though application includes others assets also. There were some injunctive orders passed but not in respect of subject account. It is also not disputed that the bank account was also subject matter of the suit as one of the assets disclosed in the application being held benami by defendant No.1, though seriously disputed by the defendants.

It is appellant's case that on a particular date when the impugned order was passed, plaintiff/appellant was condemned unheard and one of the assets, the subject matter of the suit, was

considered in a way that the defendant No.1/ Respondent No.1 now have an access of the account which, per learned counsel for the plaintiff, was held benami by her.

Be that as it may, we are not going into controversy as to the entitlement of the account being held benami or otherwise. In our understanding of law such mandatory injunction, as passed on 29.11.2021, should not have been passed without hearing the counsels, therefore, without touching merits of the case and as reluctantly agreed by Mr. Maaz, the applications pending in the suit (Suit No.2047/2019) shall be heard by the learned single Judge at the earliest and the status of the subject account existed on the day prior to the passing of the order dated 29.11.2021 shall be deemed to exist.

The order dated 29.11.2021 is recalled and will have no effect as far as the pending applications are concerned. It is expected, seeing gravity of the dispute, that the applications be heard and decided within a period of 45 days.

With the above understanding, the instant Appeal is disposed off along with pending application(s).

JUDGE

JUDGE

Ayaz Gul