

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

H.C.A. No.433 of 2023

Syed Saad ul Haq & another
Versus
Province of Sindh and others

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Fresh Case

1. For order on CMA No.5431/2023 (Urgent).
2. For order on office objection a/w reply as at "A".
3. For orders on CMA No.5432/2023 (Exemption).
4. For hearing of main case.
5. For orders on CMA No.5433/2023 (stay).
6. For orders on CMA No.5434/2023 (U/S-94 CPC).
7. For orders on CMA No.5435/2023 (U/O-XVIII Rule-18 CPC).

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Dated 29.11.2023

Syed Ali Ahmed Zaidi, Advocate for Appellants.

Mr. Ahmed Ali Husain, Advocate for Respondent No.8.

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1) Urgency granted.

2-7) Learned counsel for the appellant has impugned an order dated 16.11.2023 passed in suit No.1875/2023 wherein three miscellaneous applications were fixed; first one for the urgency, second one was the "injunction application" and the third one was an application for inspection. The urgent application was granted, however, inadvertently learned single Judge treated application [injunction application] at serial No.2 of the order sheet as an exemption application and that was also granted. Perhaps it was inadvertently recorded, the application [CMA No.18423/2023] as such is restored in view of the fact that we are not in agreement with the reasoning assigned for adjourning sine-die the suit. It is only an initial stage of the suit and the requirement of Section-10 CPC is not at all attracted to the case in hand, prima facie. At the most the court shall stay the trial of the suit on meeting the conditions of Section-10 CPC and not otherwise. Learned counsel for the appellant has relied

upon the judgment reported in 2006 SCMR 1262 [*Muhammad Yaqoob v. Bhram Khan*].

Mr. Ahmed Ali Hussain, learned counsel for Respondent No.8 has reluctantly agreed having no defence to support the impugned order that in a situation where the order that has adjourned the suit sine-die is beyond reasons required by section-10 CPC. He waived notice in this appeal as well as in suit for Respondent No.8, (who is defendant No.8 in the suit), as well as permitted to file vakalatnama.

The order whereby the suit was adjourned sine-die, as referred in the impugned order, is set aside and all findings contrary to the case of the appellant would not come in the way when an injunction application, (as is being restored), will be heard by the learned single Judge that is CMA No.18423/2023, which is restored as it was on 16.11.2023 prior to the passing of the impugned order.

With this understanding, the High Court Appeal is disposed of along with pending applications.

JUDGE

JUDGE

Ayaz Gul