

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

Suit 969 of 2022  
Suit 1174 of 2018

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| Date | Order with signature of Judge(s) |
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1. For hearing of CMA No.9617/2022.

**05.10.2023**

Mr. M. Umar Akhund, advocate holding brief for Qazi Umair Ali, advocate for the plaintiff.

Mr. Javed Ali Sangi, advocate for the defendant/SRB.

Mr. Irfan Mir Halepota, advocate for the defendant.

Mr. Muhammad Aqeel Qureshi, advocate holding brief for Syed Mohsin Imam, advocate for the defendant.

Mr. Shehryar Qazi, Additional Advocate General Sindh.

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These suits essentially assail show cause notices and on the last date of hearing, learned counsel was confronted as to maintainability *inter alia* in view of the judgment of the honorable Supreme Court reported as 2022 SCMR 92 (*Commissioner Inland Revenue v. Jahangir Khan Tareen*), as approved by the Supreme Court recently in Judgment dated 15.09.2022 rendered in *DCIR vs. Digicom Trading (CA 2019 of 2016)*. Despite a fixed date having been given for today, plaintiffs' learned counsel is absent and adjournment is being sought on his behalf. While this may be a fit case for dismissal for non-prosecution, however, it is considered appropriate to advert to the issue of maintainability instead.

The grievance of the plaintiffs arose upon issuance of a show cause notice thereto, as is manifest from the respective paragraphs of the memoranda of plaint pleading accrual of the cause of action. Perusal of the impugned notices demonstrates that a forum and opportunity for consideration of any grievance of the plaintiffs was provided. Any eventual order passed in pursuance thereof would be appealable, however, instead of replying the impugned notices the present suit was filed and *ad interim* orders obtained<sup>1</sup>.

Default by the plaintiffs in seeking recourse before the statutory hierarchy could not be demonstrated to denude the statutory forum of its jurisdiction; or confer the same upon this court. Even otherwise, the it could not be demonstrated as to how this Court could assume jurisdiction in such matters in view of the Judgment reported as 2022 SCMR 92

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<sup>1</sup> Subsisting until today.

(*Commissioner Inland Revenue v. Jahangir Khan Tareen*), as approved by the Supreme Court recently in Judgment dated 15.09.2022 rendered in *DCIR vs. Digicom Trading (CA 2019 of 2016)*. Similar views were articulated by learned Single judges in order dated 27.09.2022 rendered in Suit 855 of 2015 and the judgment reported as 2022 PTD 1742 (PPL vs. Pakistan).

In view of the foregoing, the complaints herein are rejected per Order VII rule 11(d) CPC.

Office to place copy hereof in the connected matter listed above.

JUDGE