

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit 2041 of 2016

Date	Order with signature of Judge(s)
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1. For orders on maintainability of suit.
2. For hearing of CMA No.13324/2016.
3. For examination of parties/settlement of issues.

09.10.2023

Mr. Javed Ali Sangi, advocate for the defendants.

None present for the plaintiff and the same appears to be the case on the last date of hearing as well. Objection as to maintainability was recorded on the last date, however, plaintiff's counsel remains absent. While this may be a fit case for dismissal for non-prosecution, however, it is considered appropriate to advert to the maintainability hereof.

This suit essentially impugns a show cause notice dated 13.07.2016, as is manifest from paragraph 24 of the memorandum of plaint being the paragraph wherein the cause of action has been pleaded. The grievance of the plaintiff is stated to have arisen upon issuance of a show cause notice thereto, as is manifest from the paragraph referred to supra. Perusal of the impugned notice demonstrates that a forum and opportunity for consideration of any reservation of the plaintiff was provided. Any order passed in pursuance thereof would eventually be appealable, however, instead of replying the impugned notice the present suit was filed and the matter has remained pending for over 7 years.

Default by the plaintiff 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, it could not be demonstrated as to how this Court could assume jurisdiction in this matter in view of the Judgment 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)*. 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 plaint herein is rejected per Order VII rule 11 (a) and (d) CPC.

JUDGE