

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**High Court Appeal No.181 of 2024**

Mariam Kamran and others  
Versus  
Danish Elahi and others

**High Court Appeals No.182 and 183 of 2024**

Mariam Kamran and others  
Versus  
Raza Elahi and others

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Present:  
Mr. Justice Muhammad Shafi Siddiqui  
Justice Ms. Sana Akram Minhas.

**1. High Court Appeal No.181 of 2024**

Fresh Case

1. For hearing of CMA No.1074/2024 (Urgent).
2. For order on office objection a/w reply as at "A".
3. For hearing of CMA No.1075/2024 (Exemption).
4. For hearing of Misc. no.1076/2024 (Stay).
5. For hearing of main case.

**2. High Court Appeal No.182 of 2024**

Fresh Case

1. For hearing of CMA No.1077/2024 (Urgent).
2. For order on office objection a/w reply as at "A".
3. For hearing of CMA No.1078/2024 (Exemption).
4. For hearing of Misc. no.1079/2024 (Stay).
5. For hearing of main case.

**3. High Court Appeal No.183 of 2024**

Fresh Case

1. For hearing of CMA No.1080/2024 (Urgent).
2. For order on office objection a/w reply as at "A".
3. For hearing of CMA No.1081/2024 (Exemption).
4. For hearing of Misc. no.1082/2024 (Stay).
5. For hearing of main case.

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**Dated 10.05.2024**

Mr. Ravi Pinjani, Advocate or Appellants in all appeals.

M/s Abid S. Zuberi and Ayan Mustafa Memon, Advocates for Respondents No.1 and 2.

M/s Haider Waheed and Ahmed Masood, Advocates for Respondents.

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**Muhammad Shafi Siddiqui, J.-** Mr. Abid S. Zuberi, learned counsel files Vakalatnama and statement along with certain documents on behalf of Respondents No.1 and 2, taken on record.

2. Some individuals, who are party to the proceedings, have impugned before us an order of 16.04.2024, which was apparently

passed on applications fixed at serial No.1-3. Presumably the impugned order, which is in nature of an ad-interim order, was passed on an application for attachment before judgment.

3. It is argued by Mr. Ravi Pinjani that the Respondents however lost, as far as the injunction application is concerned upto the Supreme Court, as the orders passed by the learned single Judge and Division Bench of this Court on injunction application were challenged before the Hon'ble Supreme Court and Civil Petition No.1179/2023 was not pressed to avail an appropriate alternate remedy. After the withdrawal of Civil Petition referred above, they (Respondents) then pressed their application bearing CMA No.13022/2021 and apparently on which the impugned ad-interim order was passed.

4. It is Mr. Ravi's case that in fact the application for attachment could be taken to its logical end, provided that the ingredients are available for passing such order. He however submits that the restraining order is violation of the order of the Division Bench of this Court as well as order of the Hon'ble Supreme Court where a challenge was made in respect of the order of the Division Bench of this Court (declining injunction) and was ultimately not pressed before Hon'ble Supreme Court. Mr. Pinjani however is of the view that the nature of the impugned order, as could be seen, is of injunctive order which is a violation.

5. M/s. Abid S. Zuberi and Haider Waheed, learned counsel appearing for the Respondents however have pointed out that any ad-interim/interim order that could preserve the corpus could be passed on an attachment application. Learned counsel have taken us to the nature of the impugned order which demonstrates that it

is yet to be decided by the learned single Judge whether it would be an injunctive order or an order that arises out of frame of Order-XXXVIII Rule-5 CPC.

6. Indeed the injunction application on the facts mentioned in the affidavits in support of application was taken to its logical end and no such application on the same grounds and facts could be repeated, it is to be seen whether the grounds exist for passing of an order of the nature, as is impugned in the shape of interim injunctive order.

7. We are sure that learned Judge was/is cognizant of the fact that threshold for deciding an injunction application is much less than an application for attachment. In our tentative view although no new facts have been narrated to pass an injunctive order within frame of Order-XXXIX Rule-1 and 2 CPC, however learned single Judge was seized of the application which is an attachment before judgment and to take that application to its logical end an order of the nature as deemed fit and proper could be passed and should keep the spirit of earlier conclusion drawn upto Supreme Court and also the case of Mohiuddin Molla<sup>1</sup>, relied upon by Mr. Abid S. Zuberi.

8. We are tentatively of the view that although an injunction on the same set of facts cannot be granted in view of the order of the Division Bench and of the Supreme Court; it is however to be seen by the learned single Judge (as demonstrated) whether the application under Order-XXXVIII Rule-5 CPC could also fetch such interim order and would not be violative of the orders referred above.

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<sup>1</sup> PLD 1962 SC 119 [Mohiuddin Molla v. Province of East Pakistan and others].

9. Since the impugned order seems to be of a tentative nature, as the learned single Judge himself has to clarify it after hearing the application, we therefore deem it appropriate to refer it to the learned single Judge who after keeping in mind the litigation where injunction application was taken to its logical end, decides the present application preferably before summer vacations.

10. With this understanding, these appeals are disposed of along with listed applications.

JUDGE

JUDGE

Ayaz Gul