

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

HCA No.189 of 2024
(Hafeezullah Abdul Rehman v. Province of Sindh & others)

Date	Order with signature of Judge
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Present: **Muhammad Shafi Siddiqui, and
Ms. Sana Akram Minhas, JJ.** _____

1. For hearing of CMA No.1122/2024 (Limitation)
2. For orders on office objection a/w reply at 'A'
3. For hearing of main case
4. For hearing of CMA No.1124/2024 (Stay)

29.5.2024

Mr. Rajesh Kumar Khagija, Advocate for Appellant a/w
Mr. Sandeep Kumar, Advocate
Mr. Muhammad Humayon Khan, Advocate for
Respondent No.4 a/w Mr. Munir Khan, Advocate
Mr. Arshad Hussain Lodhi, Advocate for Respondent
No.5
Mr. Abdul Jaleel Zebedi, AAG

Muhammad Shafi Siddiqui, J: Syed Ali Zaidi files Vakalatnama of Mr. Muhammad Ali Lakhani on behalf of Respondents No.3, 6 and 7, which is taken on record. Mr. Muhammad Humayon Khan files Vakalatnama and counter affidavit on behalf of Respondent No.4, which are also taken on record.

2. Learned Counsel for the Appellant has assailed an interim order which has essentially modified an earlier ad interim order dated 04.5.2024 in Suit No.209/2024. It is Appellant's case that there were some bunch of cases of like nature and earlier ad interim orders were being observed in Suit No.1714/2023 and the aforesaid Suit No.209/2024, however when all these Suits were clubbed together, the ad interim order in Suit No.209/2024 passed on CMA No.3661/2024 was modified. It is claimed that it could not have been done unless the office has fixed the application on that day. He relied upon the judgments of Qazi Muhammad

Tariq v. Hasin Jahan and 3 others (1993 SCMR 1949) and Karachi Fisheries Harbour Authority v. M/s. Hussain (Pvt) Ltd. (2016 MLD 1037).

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

4. The Counsel may be right in understanding that the earlier ad interim orders passed in the referred Suits and the one modified in one of those Suits have overlapped each other but there is no dispute that these were only interim/ad-interim orders. The appeal before us is only against a modified impugned order which is of interim nature, which may have overlapped the earlier one in another similar nature of Suit clubbed together. The learned Counsel however may assist the learned Single Judge in reaching to a just, fair and lawful conclusion, as to what should a lawful order be while disposing of the Misc. Applications likely to be fixed and taken up by the learned Judge. The appeals against ad-interim/interim orders are not to be entertained unless exceptional circumstances and serious injustice is shown. The grievances of Appellant could be remedied once the application is heard and decided finally.

5. Reliance that was placed by Appellant in the case of Qazi Muhammad Tariq (supra) is not relevant in the sense that a Suit, which was not ripe for hearing, was dismissed when only an application was fixed for hearing. The Suit is ripe for hearing only when the issues are framed and not otherwise and rightly so it was concluded that a Suit when it was not fixed for hearing should not have been dismissed. This has no applicability to the case in hand.

6. The other case relied upon by the learned Counsel is of Karachi Fisheries Harbour Authority (supra), which is also of a similar nature; while the matter was fixed for hearing of Misc. Application the main matter was taken up, as it was otherwise ripe for final disposal “but not fixed by the office”. It was held that the learned Judge should not have disposed of the Suit on its own unless it (Suit) is fixed by the office.

7. The consideration before us is totally different. It was only an ad-interim order which was modified and is still an interim; it is claimed that the modified order overlaps the earlier ad interim order passed in Suit No.1714/2023 hence the learned Judge should not have modified the order as not permissible under the given circumstances.

8. We do not agree with the contention of the learned Counsel. If an ad interim order could be granted after hearing a Counsel, it can always be modified if the circumstances requires, subject to final conclusion to be drawn after hearing. Nonetheless, since it is only an interim order, the Counsel may assist the Court in reaching to a just and lawful conclusion and seek disposal of the pending application as required under the law.

9. With this understanding the Appeal is disposed of along with all pending applications, if any.

JUDGE

JUDGE

Shakeel, PS.