

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Suit 607 of 2023

Date: Order with signature of the Judge

1. For hearing of CMA No.6614 of 2023
2. For hearing of CMA No.8249 of 2023
3. For hearing of CMA No.16377 of 2023
4. For hearing of CMA No.19952 of 2023
5. For hearing of CMA No.2971 of 2024

04.09.2024

Mr. Tariq Ahmed Memon, advocate.
Mr. Sumair Hassan advocate.
Ms. Mehmooda Suleman, advocate.
Mr. Mehmood Yousufi.
Mr. Ali Safdar Depar, Assistant Advocate General.
Mr. Abdul Rasool of PS Bahadurabad.

This suit was filed by residents of Ghazi Road KDA Scheme No. 1 Karachi alleging that a neighboring **residential property, bearing C-134, KDA, Scheme No.1, Karachi**, is being used for commercial purposes as beauty salon by the name of "**Sabs Salon**".

On 09.05.2023, interim orders were passed herein restraining the suit property from being used of commercial purposes and the said order subsists till date.

Vide order dated 25.09.2023, the inspection of the suit property was ordered. The Nazir Report demonstrated that the residential property was in fact being used for commercial purposes as alleged. Despite orders of this court the illegal commercial activity subsists till date, therefore, the contempt application was moved.

Notice was issued and in the said order the alleged contemnor no. 1 was directed to be present on the next date. The alleged contemnor did not appear on the said date or at any time thereafter, as gleaned from the order sheet.

On 15.02.2024, bailable warrants were issued to compel the attendance of alleged contemnors and directions were also repeated to file a counter affidavit, if so advised. Alleged contemnor no.1 appeared and sought time to file a counter affidavit. The subsequent order dated 21.03. 2024 demonstrates the manifest absence of the alleged contemnor and the counter affidavit. The situation persisted and on 13.08.2024 notice was issued again for a fixed date.

The alleged contemnor no. 1 did not appear on that date and the matter was once again fixed for the said purpose on a subsequent date. Once again the alleged contemnor no. 1 remained absent, however, a learned counsel sought time and undertook that the alleged contemnor no. 1 shall be present on the next date.

Yet again, neither the alleged contemnor no. 1 appeared nor was any counter affidavit placed on record. Therefore, vide order dated 28.08.2024 non bailable warrants were issued for the arrest and production of the alleged contemnor no.1 before the Court on the next date; today.

The office has highlighted that the order to compel the attendance of the alleged contemnor was assailed before the learned Division Bench of this Court, in HCA 295 of 2024, and the learned bench has been pleased to convert the non bailable warrants into bailable warrants; in the sum of Rs.10,000/-.

The Court file demonstrates the existence of an order of restraint which is demonstrably being violated by the alleged contemnor. A brief chronology of the efforts undertaken by the court to procure the attendance of the alleged contemnor has been narrated supra. Irrespective of whether the order dated 28.08.2024, qualified as an appealable order per section 19(1) of Contempt of Court Ordinance or not; the appeal was entertained and orders were passed.

It has been reported that there are more than 25,000 cases pending on the original side of this Court. Respectfully, the order in appeal suggests that the efforts of this court, to procure the attendance of the alleged contemnor to enforce the orders of this Court, are perhaps not in consonance of the law. Since I have already demonstrated intent in this matter, therefore, propriety demands that I do not hear this matter any further. Therefore, this matter may not be placed before me, *Agha Faisal J.*

Judge

Amjad