

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
 High Court Appeal No. 214 of 2019

Date	Order with signature of Judge
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Hearing (Priority) Case

1. *For orders on office objections along with reply as at "A".*
2. *For hearing of main case.*
3. *For orders on CMA No.1731/2019 (Stay).*

31.10.2022:

Dr. Adeel Abid, advocate for the respondents No.1 to 3.

No one is in attendance on behalf of the appellant, no intimation is received.

Learned counsel for the respondents No.1 to 3 submits that appellants are not coming forward to proceed with the Suit, which is pending since 2019, whereas, Instant High Court Appeal is meritless as the impugned order passed by the learned Single Judge in Suit No.412/2019, whereby, the application i.e. CMA No.3418/2019 under Order XXXIX Rule 1 & 2 CPC by the appellant seeking injunctive relief has been dismissed, does not suffer from any factual error or legal infirmity. It has been further contended by learned counsel for the respondents that appellant had no prima-facie case or locus standi either to file the Suit or seek any injunctive relief as the contract executed between the appellant and respondents No.1 to 3 was terminated on account of failure and default towards performance of contract on the part of appellant, whereas, the subject contract for distribution was not coupled with interest as stated in the Suit. Per learned counsel, after termination of the subject contract for marketing, installation and distribution O.T.I.S. lifts and equipments the same has been awarded to respondent No.4 after compliance of all the codal formalities, therefore, the very Suit as well as instant High Court Appeal has otherwise become infructuous, is liable to be dismissed.

Record shows that instant was filed on 18.05.2019, however, the appellant failed to obtain any restraining order, however, the Suit is

pending before the learned Single Judge without any useful progress, as according to learned counsel for the respondents, appellant is not coming forward to pursue the same. In the instant matter, it also appears that the appellant and their counsel have not remained vigilant either to pursue the matter or to obtain any restraining order, whereas, according to learned counsel for the respondents, the contract for marketing, installing and distribution O.T.I.S. lifts and equipments has already been awarded to the 3rd party, and perhaps for this reason, the appellant and its counsel not coming forward to pursue instant High Court Appeal. Accordingly, this Court is left with no option but to dismiss instant High Court Appeal for non-prosecution along with listed application.

J U D G E

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Nadeem