

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
 High Court Appeal No.96 of 2024  
 (Syed Muhammad Kazim Advocate & another Versus Rub Razi Cooperative  
 Housing Society Limited & another)

Dated	Order with signature of Judge
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Present:  
 Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Omar Sial

Hearing case (Priority)

1. For hearing of CMA No. 595/2024 (Limitation)
2. For hearing of main case
3. For hearing of CMA No. 597/2024 (stay)

**Dated 03.04.2024**

Syed Muhammad Kazim, Advocate/Appellant in person  
 Mr. Anand Kumar, Advocate for the Respondent No.1  
 Mr. Abdul Jaleel Zubedi, AAG

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**Muhammad Shafi Siddiqui, J** – We have heard learned counsel and perused the record. A suit in the nature of declaration, directions, specific performance, possession, rendition of accounts, mandatory and permanent injunction and damages was filed against Rub Razi Cooperative Housing Society Limited and Government of Sindh.

2. Appellants seek specific performance against the Respondent No.1 that is Rub Razi Cooperative Housing Society Limited (“the Society”). They have pleaded that the society be directed to execute sub-lease deed/sale deed in their favour before the concerned Sub-Registrar in respect of a plot identified in prayer clause (i) of the plaint, measuring 400 square yards. We are now in a regime where Sindh Cooperative Societies Act, 2020 (“the Act of 2020”) and the Sindh Cooperative Societies Rules, 2020 has taken over and subject is being toed by ibid law. In terms of Section 116, the Act of 2020 provides a bar to exercise such jurisdiction over

general Courts. Section 116 of the Act of 2020 provides that no Court or other authority whatsoever shall have jurisdiction to entertain, or to adjudicate upon, any matter which Government, the Registrar, officer or liquidator, a society, a financing bank, a Co-operative bank or any other officer or person is empowered by or under this Act, or the rules or by-laws framed thereunder, to dispose of or to determine. Section 116 of the Act of 2020 however further provides that no Court or authority whatsoever shall be competent to grant any injunction or pass any other order in relation to any proceedings under this act.

3. Appellant No.1 present in person has not urged a word that the Society is not performing under the Act in fact in the plaint the Appellants have pleaded that they be directed to execute a sale deed in their favour. It is a business of society as described in terms of the Rule of 2020. Rule 53 frames the dispute of the Appellants within the jurisdiction of the Special Court. For convenience Rule 53 is reproduced as under:-

**“53. Disputes:--** (1) If any dispute touching the business of a society other than a dispute regarding disciplinary action taken by the society or its committee against a paid servant of the society arises.

- (a) between Members or past members of the society or persons claiming through a member or past member; or
- (b) between members or past members or persons so claiming and any past or present officer, agent or servant of the society; or
- (c) between the society or its committee and past or present member of the society; or
- (d) between the society or its committee and any past or present officer, agent or servant of the society, or a surety of such officer, agent or servant, whether such surety is or is a member of the society or surety of such officer, agent or servant, whether such surety is or is not a member of the society;
- (e) between a society authorized under sub-section (1) of section 45 and a person who is not a member of a society,

it shall be referred to Cooperative Court established under Section 117 established by Government with the concurrence of the Chief Justice of the Sindh high Court, by notification.

(2) Any party aggrieved by any decision, order or judgment of the Special Court for Cooperatives may within 30 days of the date of such decision, order or judgment, appeal to the High Court of Sindh.”

Since it is a special dispute of Court now assigned under the Act of 2020 and the Rules described the relief as one within the business of the society therefore, it ought to have been decided under the Act of 2020.

4. The judgments relied upon by the Appellant are not relevant. The judgment of Division Bench as relied upon in the case of M. Wahidullah Ansari Versus Zubeda Sharif and another (PLD 2002 Karachi 414), the bench itself was of the view that not each and every nature of dispute between the persons specified under Section 54 of the Cooperative Societies Act, 1925 (as existed) is referable to the statutory arbitration. The Statutory arbitration must be “a dispute touching the business of the society”. In the instant case the dispute as identified is one which is touching the business of society as the Appellants themselves claim performance against the Respondent No.1 which is a society. Since the Appellants are claiming performance by way of execution of sub lease deed or sale deed by the Society it is their business. No interference is required.

5. Appeal is dismissed in above terms along with listed applications.

*JUDGE*

*JUDGE*