

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**SECOND APPEAL NO.62/2023**

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Date

Order with signature of Judge  
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1. For hearing of CMA No.7244/2023
2. For hearing of CMA No.1779/2023
3. For hearing of main case.

**12.10.2023**

M/s. Muhammad Islam Leghari and Faqir Qurban Ali Soomro advocates for appellant.

Mr. Umar Sikandar advocate for respondent No.1(a),(e) & (f)

Mr. Muhammad Ahmed, DAG.

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Mr. Muhammad Arif Shaikh files Vakalatnama on behalf of respondent No.1(b),(c) and (d), taken on record, he claims memo of appeal which shall be provided by counsel for appellant within three days.

2. Heard learned counsel for respective parties with regard to the paragraph No.20 of impugned judgment dated 16.02.2023 passed by (Ms. Sadaf Khokhar), District Judge, Malir, Karachi in Civil Appeal No.99/2020 particularly direction as starting with *“Let decree be prepared and copy of this judgment alongwith judgment passed by Mr. Naley mitho @ Muhammad Ishaq, the then Senior Civil Judge IV, Malir Karachi be sent to learned MIT-I, Honourable High Court of Sindh for inspection and appropriate action.”*

3. Even assuming that Judicial Officer of the Trial Court has erred in his conclusion. To err is human and judges, however high, are human. But to malign a subordinate judge and demolish the victim judge is to discredit the judiciary in the larger sense. After all, the credibility of the Court system depends not on one judge or a few but on the judicial establishment as a whole. The concluding paragraph of the Impugned Judgment naming the Judicial Officer and sending

report against him to the MIT-I for taking action without showing a single reason is an unfortunate departure from the dignity of office. Honourable Apex Court has already restrained the Appellate Courts in Case of **Hasnain Raza and another v. Lahore High Court, Lahore and others (PLD 2022 Supreme Court 07)** from passing of judicial strictures against the subordinate judges. All judges belong to the judicature and are members of the learned brotherhood. If there is one principle of cardinal importance in the administration of justice, it is this: the proper freedom and independence of Judicial Officers must be maintained and they must be allowed to perform their functions freely and fearlessly and without undue interference by anybody, even by this Court. It has also been recognised that judicial pronouncements must be judicial in nature, and should not normally depart from sobriety, moderation and reserve. Article 203 of the Constitution of Islamic Republic of Pakistan, 1973 was meant to give administrative control to High Court of each Province to supervise and control all Courts within respective Provinces. Said Article had linked administrative relationship between the High Court and Subordinate Courts within the Province.

4. For the foregoing reasons, in the interest of justice the last four lines of Paragraph No.20 of the impugned Judgment dated 16.02.2023, as quoted above, to the extent of referring the matter to the MIT-I and direction for inspection, are hereby expunged. However on merits this court will proceed and decide the case after hearing the parties on next date.

To come up on 14.11.2023.

**J U D G E**