

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Muhammad Shafi Siddiqui, CJ
Mr. Justice Jawad Akbar Sarwana.

High Court Appeal No. 507 of 2024

Appellant: Dawood Ahmed Salar, through Mian Muhammad Akram, Advocate

Versus

Respondents: Saud Ahmed Salar and another,
Nemo

Date of hearing/short order: 16.12.2024

Date of Reasoning: 23.12.2024

ORDER

JAWAD AKBAR SARWANA, J.: On 11.11.2024, the appellant/plaintiff filed this appeal against the Order dated 18.10.2024 passed by the learned Single Judge, correcting an inadvertent error that had cropped up in the judgment dated 27.09.2024 and decree dated 08.10.2024. Earlier, the learned Single Judge had dismissed Suit No.685/2006 filed by the appellant/plaintiff, imposing costs of Rs.500,000. However, due to an apparent inadvertent error, such dismissal was recorded as follows:

“.....the suit of Plaintiff is dismissed with a cost of Rs.500,000/- to be paid by Defendant to Plaintiff within thirty days from the date this judgment.”

2. A plain reading of the above shows that when the suit was dismissed, the costs would be awarded against the appellant/plaintiff, not vice versa. Hence, the learned Single Judge allowed the application for correction to the Judgment and Decree, and the operative line of the Judgment and Decree was ordered to be corrected by red-ink to read as follows:

“.....the suit of Plaintiff is dismissed with a cost of Rs. 500,000/- to be paid by Plaintiff to Defendant within thirty days from the date this judgment.”

3. We have perused the Judgment dated 27.09.2024 and the Decree dated 08.10.2024 and note that no appeal was preferred against the said Judgment and Decree until this appeal filed on 11.11.2024. Indeed, the challenge to the said Judgment and Decree were made after the impugned Order dated 18.10.2024. No Application for condonation of delay has been filed along with this Appeal. The Judgment and Decree had attained finality and become barred by time. If the Judgment and Decree aggrieved the Appellant/Plaintiff on the merits, there was no reason for him to wait. He should have remained vigilant and preferred his challenge to the Judgment and Decree within time. This he has failed to do.

4. We now turn to the Order dated 18.10.2024, which the Appellant/Plaintiff has also impugned in the appeal. When the learned Single Judge has dismissed the suit and imposed costs, it cannot be the case that he has imposed costs on the Defendant. In the event of a dismissal of a suit, there is no bar on the trial court to impose costs on the plaintiff after passing the judgment. On the face of it, this was a typographical error in the Judgment and Decree, which was corrected vide the impugned Order dated 18.10.2024. We find no reason to interfere in the impugned Order.

5. When we heard the appeal on 16.12.2024, we found it frivolous and accordingly dismissed it with costs of Rs.50,000 to be deposited to the Sindh High Court Medical Clinic in a fortnight. The above are the reasons for the Short Order dated 16.12.2024 dismissing the appeal and imposing costs of Rs.50,000/-.¹

JUDGE

CHIEF JUSTICE

¹ *Zakir Mehmood v. Secretary, Ministry of Defence (D.P.), Pakistan Secretariat, Rawalpindi, etc.*, 2023 SCMR 960 (CP No.2712/2020) and *Muhammad Siddiq and another v. Mst. Ruqaya Khanum and others*, PLD 2001 Karachi 60 (Division Bench). Also, see Suit No. Nil of 2020, Order dated 18.05.2020 in *Damen Shipyards Gorinchem B.V. v. The Ministry of Maritime Affairs & Others* (unreported)(Muhammad Junaid Ghaffar, J.) and Suit No.765 of 2024 in Order dated 31.07.2024 in *Vista Apparel (Pvt.) Ltd. v. S.M. Traders (Pvt.) Ltd. & Others* (unreported)(Muhammad Abdur Rahman, J.)