

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.1512 of 2023

Date

Order with signature of Judge(s)

1. For orders on CMA No.15517/2024.

29.10.2024

Mr. Tahir Hassan Qureshi, advocate for the plaintiff.
Mr. Ikram Qadir, advocate for the defendants No.6 & 7.

1. Urgency granted.

This suit seeks following relief(s):

- i. Declare that unless there is adjudication by one independent forum to recovery proceedings can be initiated against the plaintiff and also declare that the recovery proceedings including attachment of bank accounts(s) till the pendency of this suit.
- ii. Declare that sub-section (4) of Section 23(C) of the foreign exchange regulation act, 1947 is violative of the fundamental rights, unconstitutional, ultra vires, illegal and no legal affect, therefore liable to be struck down alternatively declare that the said provision is directory not mandatory.
- iii. Declare that the action of the defendants No.2 and 4 to impose lien as well as penalty vide Judgment dated: 31.12.2021 is ab-initio void, illegal and in patently ultra vires to the articles 73, 77 of the constitution read with Rule 4, 6, 16 of Rules of Business 1973 be set-aside.
- iv. To declare that the insertion para No.33-A in chapter 12 in the foreign exchange manual and its subsequent revision is violative of article 73 and 77 of the constitution of Islamic Republic of Pakistan 1973 and therefore without lawful authority, void, ab-initio and of no legal affect.
- v. Direct the defendant No.3 to admit the appeal for hearing without surety.
- vi. Direct the defendant to de-attach the bank accounts of the plaintiff as well as refund the illegally recovered amount from the plaintiff by attaching its bank accounts.
- vii. Restrain the defendants to take any coercive / adverse action against the plaintiff till the decision of the instant suit including withdrawal of further bank accounts of the plaintiff.
- viii. To pass judgment and decree in favor of the plaintiff against the defendant to pay as damages bearing Rs. 100,000,000/- (Rupees Ten Crore Only) on account of closer of business of the plaintiff by attaching bank accounts and recovered the amount illegally and forcefully so also mental stress and aony as well as torture in shape of financial losses to the plaintiff.
- ix. Any other relief or reliefs which this Honorable Court may deem fit and proper under the circumstances of the case may also be awarded.
- x. Cost of the suit.

Counsel was confronted as to tenability of suit, however, he remained unable to assist. In view of the binding Judgment of a Division Bench this court dated 21.06.2024, passed in CP D 3066 of 2024 (Pak Terry Mills (Pvt.) Limited vs. Federation of Pakistan & Others), this suit is found to be misconceived, hence, in mutatis mutandis application of ratio so settled, this suit is dismissed.

Judge

Khuhro/PA