

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Civil Revision Application No.103 of 2022

Date	Order with signature of the Judge
------	-----------------------------------

Hearing of Case (Priority).

1. For orders on CMA No.4892 of 2022.
2. For hearing of CMA No.4893 of 2022.
3. For hearing of Main Case.

17.05.2024

M/s. Muhammad Qasim Iqbal, Sardar Amir Arif and Sarmad Azad,
Advocates for the Applicant.

Mr. Sami Majeed, Advocate for the Respondent No.3.

Respondent No.1-Tanveer Hussain Shah is present in person.

Learned counsel for the Applicant has challenged the Impugned Order dated 02.08.2022, whereby, the Application filed by the Applicant under Order VII Rule 11 of CPC, for rejection of plaint of Suit No.02 of 2021, filed by Respondent No.1, was dismissed. Learned counsel for the Applicant states that in view of the following Case Law, the Impugned Order has been wrongly passed and a material illegality in the plaint has been over looked, that no Notice under Section 8 of the Defamation Ordinance, 2002, was given to the Applicant_

i) 2021 MLD page-1

[Preetam vs. Madhu Das Godwal and another]

ii) PLD 2016 Peshawar page-105

[Mst. Dr. Yousaf Fida and another vs. Justice (Retd.) Muhammad Azam Khan]

iii) 2018 MLD 1993 [Peshawar]

[Azad Khan Khattak and 5 others vs. Muhammad Faisal Khan Durrani]

On the other hand, the Respondent No.1, who appears in person, has opposed this Revision Application, whereas, Mr. Sami Majeed, Advocate appearing for Respondent No.3-Allied Bank Limited, states that they have a separate issue with the Respondent No.1, who has purchased a Property of Respondent No.3, but the entire payment is not made; contended that the

Respondent No.3 has been unnecessarily impleaded, as one of the Defendants.

Arguments heard and record perused.

The Respondent No.1 has filed a Statement today along with the Case Law, as observed on last date of hearing with a copy to the Applicant's Counsel. The said Statement is taken on record. He has referred to Annexure "A/5" and other documents that he has made Complaints to the Assistant Registrar Joint Stock Companies, Sindh [Karachi], which is the Regulator of Defence and Clifton Association of Real Estate Agents, to highlight the malpractices and corruption.

To a specific question that whether any Legal Notice was given by Respondent No.1 to the Association in response to the Publication made in the Newspaper of 04.08.2019 (*at page-65*), the Respondent No.1 stated that his Letter as Annexure "B" with the Statement is the Notice. The same has been perused and apparently it is not a Notice in response of the impugned Publication, because it does not particularly address the same, but it pertains to some other commercial transaction. He contended that he has written another Letter on 31.07.2019 to the Applicant, *inter alia*, highlighting the corruption but no action has been taken so far.

On the other hand, learned counsel for the Applicant has referred to the Letter dated 27.08.2019 (*at page-63*) with the Statement of Applicant's Counsel available in record, to support his arguments that Respondent No.1 has tendered apology for his conduct. The plaint has been perused.

Before this, a Suit No.86 of 2020 was filed on which the Order dated 26.11.2020 was passed and the learned Trial Court was of the view that the matter relates to above Publication (Defamation), thus, directed that the plaint be presented before the competent *forum*, where after, admittedly, the plaint of present Suit No.02 of 2021 was filed before the learned

District Judge by the Respondent No.1 without challenging the Order dated 26.11.2020. The plaint contains not only the Damages Prayer but also a Declaration and a Prayer of Restoration about the Membership of Respondent No.1 in “*DEFCLAREA*”. During arguments also, Respondent No.1 has repeatedly stated that he has not filed the case only for Defamation but seeking other remedies as well.

In view of the above discussion, the Impugned Order is not correct, as it has not taken into consideration the Case Law and the entire pleadings of the plaint, which should be done now. Consequently, this Revision Application is allowed only to the extent that the Impugned Order is set-aside and the matter is remanded to the learned Trial Court for Decision afresh on the Application under Order VII Rule 11 of CPC, filed by the Applicant, after considering the above observation. The Decision should be given within four (04) weeks from today. Any observation in this Order is of tentative nature and should not influence the Decision.

This Revision Application stands disposed of along with pending applications.

JUDGE

M.Javid PA