

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD

R.A.No. 80 of 2019  
R.A.No. 81 of 2019  
R.A.No. 82 of 2019  
R.A.No. 83 of 2019

**05.11.2024.**

Mr. Mushtaque Ali Tagar, Advocate for Applicant alongwith Applicant.

M/s Jaleel Ahmed Memon, Ghulam Mustafa Burdi, Syed Jan Muhammad Bukhari and Rakesh Kumar, Advocates for Respondent.

**ORDER**

***MUHAMMAD FAISAL KAMAL ALAM, J:*** Due to commonality, all these Civil Revisions Applications are decided by this common Order.

2. There are two sets of facts which require clarification; Civil Revision No.80 and 81 of 2019 are filed against the impugned Order passed by the learned Trial Court of 1<sup>st</sup> Additional District Judge, Shaheed Benazirabad, dismissing the Application of present Applicant filed Under Order 7 Rule 11 of C.P.C requesting for rejection of Plaints of Suits No. 3 and 4 of 2018, instituted by the Respondents of the above Revisions; *whereas*, Civil Revisions No.82 and 83 of 2019 relates to the impugned Order passed by the same Court on Application filed by the Applicant Under Order 7 Rule 10 of C.P.C, that, Plaint of the above Suits be returned and filed before the concerned Court of District Naushahro Feroze.

3. Mr. Mushtaque Ahmed Tagar, Advocate, along with the Applicant Muhammad Shabbir [Advocate], argued that the impugned Decisions are contrary to law and facts and their submissions were not properly appreciated while dismissing the Applications for rejection and return of Plaints. Contended that Respondents played fraud upon the Applicant, and in order to defend the proprietary interest of the Applicant in respect of land where upon

a Multi-Storey Project was to be built, the Public Notice and Press release were published in Dailies 'Ummat' and 'Kawish', which are not defamatory in nature; the Respondents are guilty of criminal breach of interest and it was necessary that Public at Large should be informed about the fraudulent acts of the private Respondents, so that their illegal acts should not have affected the interest of the Applicant. Further contended that the Management of the Newspapers have not been impleaded as Defendants, which legal lacuna is fatal to the case of the private Respondents [as Plaintiffs of the above Suit]. Learned Counsel has cited 2022 MLD 805 [*Abdul Bari v. Akhtar Rasheed, Station House Officer, Police Station Airport, Quetta and 5 others*] in support of the arguments that in a Defamation Suit where the pleadings are vague and not specific, Plaint has to be rejected.

4. M/s Jaleel Ahmed Memon, Ghulam Mustafa Burdi, Syed Jan Muhammad Bukhari and Rakesh Kumar, the Legal Team of the private Respondents in all these Civil Revisions have rebutted the above contentions and have drawn my attention to the Application filed Under Order 7 Rule 11 of C.P.C in above Revisions and Order 7 Rule 10 of C.P.C in Civil Revisions No.82 and 83 of 2019. Contended that Paragraph-4 of the supporting Affidavit admits that the Article was published in daily 'Kawish' published from Naushahro Feroze; argued that the entire contents of both the Applications are based on factual controversies and can only be adjudicated upon after a proper Trial. The Counsel Mr. Burdi has referred to the Provisions of Section 13 of Defamation Ordinance [2002]- the **Governing Law**, that the Court of District Judge will have jurisdiction to try the matters so also Section 19 of C.P.C [Civil Procedure Code] that if a wrong is done within the local limits of the jurisdiction of one Court and Defendant resides [or do business] within the local limits of the jurisdiction of another Court, then the Plaintiff has a choice to file a Suit within the jurisdiction of either of the Courts. He has cited 2019

MLD 1882 [Lt.-Col. (Retd.) Muhammad Wali Khan Durrani v. University of Karachi and others].

5. Arguments heard. Record perused.

6. Both these Applications on which the impugned Orders have been passed, are perused. The Application Under Order 7 Rule 11 [in both Suits, *ibid*] has not disclosed any fact from which it can be ascertained that Plaint is barred by any law. Even during the arguments the learned Counsel is unable to show that under which provision of Law, the above Suits are barred. Similarly, perusal of the Applications Under Order 7 Rule 10 of C.P.C (on which the impugned Order is passed) show that the grounds mentioned are that the Applicant is a resident of Naushahro Feroze, the Notice for Publication in the above Two Dailies were issued from Naushahro Feroze, Properties in dispute are also situated there, besides, pendency of other litigation between the Parties.

7. The Respondents have filed the Suits under the special Statute, viz- the Governing Law (*Supra*) and before filing the Plaint a requirement is that a legal notice should be issued which is also complied with, and the Legal Notice is part of Record. **Secondly**, the stance of the Applicant is somewhat contradictory to the extent, that on the one hand he is saying that the Plaint should be rejected, inter alia, because the publication in dispute is made in the public interest; whereas in the second Application Under Order 7 Rule 10 of C.P.C, the Plea is that the Plaints be returned and be filed in Court at Naushahro Feroze. **Thirdly**, both Plaints have been perused, in which there are specific allegation with regard to the impugned publications and claim of damages. With regard to the contention of Applicant's Counsel that the Newspapers and their Editors / Publishers were not impleaded as party, the Legal Team of the Respondents have cited the above Judgment; notwithstanding this, this very Issue will be decided by the learned Trial Court

after considering the record. **Fourthly**, the contention of Applicant that Publication in two Dailies were initiated / issued from Naushahro Feroze and hence, the Court there has jurisdiction, the same has been properly addressed in the impugned Order, by placing reliance upon the Judgment of Honourable Supreme Court in the case of *Liberty Papers Ltd. and others v. Human Rights Commission of Pakistan*-PLD 2015 Supreme Court 42, holding, *inter alia*, “the jurisdiction of Courts in defamation cases to lie in both where the newspaper is published and where it is circulated, with the option to be used by the plaintiff (respondents).”

8. In view of the above, both the impugned Orders are not illegal and do not suffer from any material irregularity, justifying interference in Revisional Jurisdiction. Consequently, all Civil Revision Applications are dismissed along with pending Applications. The learned Trial Court will decide the matter expeditiously as required under Section 14 of the above Governing Law.

JUDGE

Tufail