

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**H.C.A. No.255 of 2004**

[M/s. Kooh-e-Noor Spinning Mills Ltd. Vs. M/s. Muslim Commercial Bank Limited]

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Present:

Mr. Justice Muhammad Shafi Siddiqui C.J.

Mr. Justice Jawad Akbar Sarwana

Hearing of case

1. For hearing of CMA No.2874/2004 (U/O VI R 17 CPC).
2. For hearing of CMA No.2231/2004 (Stay).
3. For Regular Hearing.

**26.11.2024**

Mr. Asim Mansoor Khan, Advocate for the appellant.

Mr. Yahya Iqbal, Advocate for the respondent.

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**Muhammad Shafi Siddiqui, C.J:** Originally a suit was filed seeking mandatory injunction and damages. While the suit was ripe after the alleged service, the plaintiff therein brought an application to carry out certain amendments in the plaint. The notice of that application for amendment of plaint was seriously disputed as a bailiff of this Court effected service upon the appellant being defendant in the suit at Lahore. Learned counsel for the respondent has graciously conceded that that could not be possible, however, he has relied upon an earlier service made upon the appellant when the amendment was not brought. Learned counsel also agreed that when the plaint was decreed on the basis of the novated version of the plaint, the service of the application seeking amendment ought to have been effected. After arguing the point of service as above, learned counsel for the respondent agreed to a suggestion that if a limited time be given to the trial Court for the disposal of the suit on merit, he would not seriously object. Accordingly, we deem it appropriate that the *de novo* proceedings be initiated whereby the time of 15 days accordingly is

to be granted to the appellant to file written statement. The trial Court may frame issues with the assistance of the counsels and after recording of evidence through commission the suit be taken to its logical end within next four months from the date of framing of issues. With this understanding, the appeal is disposed of alongwith listed applications.

CHIEF JUSTICE

JUDGE

Asif