

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

Suit 986 of 2023

Date: Order with signature of the Judge

For hearing of CMA 9220/2023

03.12.2024

Mr. Ayan Mustafa Memon, advocate for the plaintiff
Mr. Salahuddin Chandio, advocate for defendant No.1.

Ms. Alizeh Bashir, Assistant Attorney General

Mr. Ali Akbar Sahito, Deputy Director (Law) PTA
Mr. Bilawal Hussain Baloch, Manger Legal (Litigation) South Zone PTCL

The respective learned counsel submit that identical matters has already been determined b this court vide order dated 13.11.2024. The same is reproduced herein below:

Agha Faisal, J. *The representative facts herein are that the plaintiffs have assailed demand notices issued by the Pakistan Telecommunication Authority for payment of annual radio frequency spectrum fee for wireless local loop license / service; ostensibly for the period starting from 2005. The amounts demanded by PTA are inclusive of USD 13,030,962/-, USD 3,108,744/- and USD 165,000/- respectively.*

It is observed that the relevant demand notices were issued at Islamabad; they were addressed to the plaintiffs at Islamabad; however, the notices were impugned in civil suits in the original civil jurisdiction of this High Court at Karachi. Interestingly, in the latter suits, the respective deponents, instituting the suits, have also represented their addresses to be in Islamabad.

Notwithstanding the foregoing, the suits were entertained at Karachi and ad interim orders were obtained at the very onset, precluding the collection of public revenue. These orders subsisted until today.

Assistant Attorney General Alizeh Bashir raised objection as to maintainability and articulated that prima facie this Court did not enjoy territorial jurisdiction to entertain these suits. Mr. Jam Zeeshan and Mr. Rashid Mahar insisted that PTA, being a public body, had a presence in Karachi also, hence, the suits were rightly instituted.

The law with respect to territorial jurisdiction is well settled; as may be denoted from the Sandalbar case¹ and recently encapsulated by Syed Mansoor Ali Shah J in the A F Furguson case². In pari materia facts and circumstances this Court held in LIEDA³ and Safe Mix Concrete⁴ that mere existence, concurrent or otherwise, of a party within a territorial remit confers no jurisdiction upon a court; especially when no manifest cause of action has accrued within the jurisdiction.

The impugned notices were issued by the PTA in Islamabad to the plaintiffs in Islamabad. The title page of each of the suits demonstrates the defendants impleaded are in Islamabad. The reference made to a zonal office in Karachi, as an additional address of the main defendant, could not be demonstrated to bestow any territorial jurisdiction upon this Court.

For purposes of conjuring the fiction of jurisdiction, the relevant clauses in the complaints (almost identical in nature), plead that since the defendants (being the Federation and PTA) perform function and exercise powers across Pakistan, including at Karachi, therefore jurisdiction may be assumed. Without prejudice to the tenability of this submission, the pleadings do not demonstrate whether any function was performed or power exercised in Karachi.

It is pleaded that if the plaintiffs are required to comply with the impugned notices, then the same shall affect the plaintiffs and also their customers at Karachi. It is also suggested that since the plaintiffs have a presence in Karachi, in addition to Islamabad and / or any other cities in Pakistan, therefore, jurisdiction may be assumed by this Court. Once again, and with respect, these grounds could not be sanctioned to confer any territorial jurisdiction upon this Court in view of the law illumined by the Supreme Court, as referred to supra.

Therefore, in mutatis mutandis application of reasoning and rationale of the authority cited supra, applicable squarely herein, the respective complaints are hereby returned per Order VII Rule 10 of the Code of Civil Procedure 1908. The office may place a copy hereof in each connected suit.

It is submitted that this suit may be disposed of in terms as aforesaid, subject to the right to avail remedy by the plaintiff, subject to the law. Order accordingly.

Judge

¹ *Sandalbar Enterprises Pvt. Ltd. vs. Central Board of Revenue* reported as PLD 1997 Supreme Court 334.

² Order dated 27.02.2024 in *CIR LTO Karachi vs. A F Furguson & Company & Others* (Civil Petition 52 of 2024) and connected matters. Reference was made to *Amin Textile Mills Pvt. Ltd. vs. Islamic Republic of Pakistan* reported as 1998 SCMR 2389; *Shahida Maqsood vs. President of Pakistan* reported as 2005 SCMR 1746; *Sethi & Sethi Sons vs. Federation of Pakistan* reported as 2012 PTD 1869; *Hassan Shahjehan vs. FPSC* reported as PLD 2017 Lah. 665; and *Sabir Din vs. Govt. of Pakistan* reported as 1979 SCMR 555.

³ Per Muhammad Junaid Ghaffar J in *Lasbella Industrial Estates Development Authority vs. Federation of Pakistan* (Suit 2631 of 2015) order dated 25.10.2016.

⁴ Per Muhammad Junaid Ghaffar J in *Safe Mix Concrete Limited vs. Federation of Pakistan & Others* reported as 2020 CLC 602 2020 PTD 263. Reliance was also placed upon *Murlidhar P Gangwani vs. Engineer Aftab* reported as 2005 MLD 1506; *Dewan Scrap vs. Customs, Central Excise & Sales Tax Tribunal* reported 2003 PTD 2127; *Sandalbar Enterprises Pvt. Ltd. vs. Central Board of Revenue* reported as PLD 1997 Supreme Court 334; *Abdul Rahim Baig vs. Abdul Haq* reported as PLD 1994 Karachi 388; *Mehboob Ali Soomro vs. SRTC* reported as 1999 CLC 1722.