

IN THE HIGH COURT OF SINDH AT KARACHI

H.C.A. 69 of 2014

Present:

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Muhammad Osman Ali Hadi

[K-Electric Limited V. Hamra Ahsan]

Date of hearing : 11.02.2025
Date of decision : 11.02.2025
Appellant : Through Mr. Muhammad Umer Lakhani,
Advocate.
Respondent : Nemo.

JUDGMENT

Muhammad Osman Ali Hadi, J: The instant Appeal arises out of Order dated 07.03.2014 (“**Impugned Order**”), whereby the learned Single Judge passed a mandatory injunction in favour of the Respondent on CMA No. 6480/2013 in Suit No. 684/2012 filed by the Respondent (Plaintiff in the said Suit). As per the Impugned Order, the Appellant was directed to install the electricity meter at the Respondent’s premises on payment of certain requisite charges. The Impugned Order also required surety to be submitted by the Respondent against claims alleged by the Appellant for payment of their electricity bill/charges. The Appellant has come before us today and claimed the Appeal has become infructuous, as the premises on which the Respondent was located (on which the crux of the Suit is based) is no longer with the Respondent, and for all intents and purposes is abandoned (at least in so far as the Respondent is concerned). The Appellant further states that no one has appeared on behalf of the Respondent for a prolonged period, and further states the Respondent does not appear interested in pursuing the matter any further (since they are no longer occupying the premises concerned). Record of the Court orders reflect the same, and it appears the Respondent has not attended or seriously contested the matter in ten (10) years. Accordingly, the Appellant wishes to withdraw / dispose the instant Appeal. The only request urged by the Appellant is that the surety (if any) submitted by the Respondent pursuant to the Impugned Order may be given to the Appellant, as the same are dues owed to them.

2. As stated above, the record shows no interest has been undertaken by the Respondent in contesting the instant Appeal for the past decade, and again today there is neither any counsel nor any intimation by the Respondent in the said matter. As per statement of the Counsel for the Appellant, the Appeal (and Suit proceedings) are in essence infructuous. In light of the aforementioned, we record the Appellant's contention that the said Appeal has become infructuous. We direct the Nazir of the Court to make a record of any amount of monies / surety submitted to him by the Respondent under any order of this Court pursuant to the instant Appeal and/or Suit No. 684/2013, after which he should fix a date and issue notice to all parties before him in the instant Appeal to appear, after which he may disburse the said amount to the Appellant (in presence of the Respondent) if the Respondent does not file any objection against the same. It is however clarified that in the event that after the Respondent has been duly served notice, but still fails to appear before the Nazir, the Nazir shall disburse such monies / sureties lying with him to the Appellant, which were furnished by the Respondent under directions in the instant Appeal and/or Suit No. 684/2013, unless there remains any legal impediment against the same, in which instance the Nazir may submit a report before the Court. It is proposed this exercise be carried out within fifteen (15) days.

This Appeal stands disposed accordingly in the above-stated terms.

JUDGE

JUDGE