

**IN THE HIGH COURT OF SINDH, KARACHI**

*Before: Muhammad Junaid Ghaffar &  
Mohammad Abdur Rahman, JJ*

**HCA No.119 of 2024**

Muhammad Wasim Khan & others

Vs.

Pakistan Defence Officers Housing Authority & others

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Appellant : Mr. Ishrat Zahid Alvi, Advocate  
Respondent No.1 : Malik Naeem Iqbal, Advocate  
Respondent No.2 : Mr. Salma Javed Mirza, Advocate  
Date of hearing : 04.09.2024  
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**J U D G M E N T**

**MOHAMMAD ABDUR RAHMAN,J:** This Appeal has been maintained under section 3 of the Law Reforms Ordinance, 1972 read with Section 15 Code of Civil Procedure, 1908 (Amended) Ordinance, 1980 impugning an order dated 6 March 2024 passed by a learned single Judge of this Court in Suit No.1919 of 2017 and by which, while hearing CMA No. 11785 of 2017 being an application under Order XXXIX Rules 1 & 2 of the Code of Civil Procedure, 1908, the learned single Judge while dismissing that application has also dismissed the entire suit.

2. The dispute involved in Suit No.1919 of 2017 is in respect of the rights of the Appellant as a “franchisor” of Shell Pakistan Limited (hereinafter referred to as “SPL”) who had been given rights to operate a Petrol Pump on Plot No. 208, 16<sup>th</sup> Street, Phase-VIII, Pakistan Defence Officers Housing Authority, Karachi, admeasuring 4000 square yards (hereinafter referred to as the “Said Property”) and which property had been given to SPL by the Pakistan Defence Officers Housing Authority

(hereinafter referred to as “DHA”) on a license dated 9 August 2012 for a period of 30 years from 28 March 2012 to 27 March 2042.

3. A Retail Franchise Agreement dated 28 April 2011 was initially executed as between SPL and one Muhammad Anis Khan and wherein the term of the Agreement was stipulated as being for a period of three years from the “start date” and which has been defined in that agreement as the date from which the retailer would commence operation of the business at the site.

4. It seems that at some point DHA had purportedly cancelled the rights of SPL under the License and which led Mr. Muhammad Anis Khan to maintain CP No. D- 4981 of 2014 before this Court and which was disposed of on the basis of the following order dated 7 October 2015:

“ ... After hearing the counsel for the parties at some length, the petition, by consent, is disposed of as under:

1. That the respondent would Issue notice and provide fifteen days’ time to the petitioner to furnish his reply, if any material is found against the petitioner.

2. That the respondent before taking any adverse action against the petitioner would provide an opportunity of hearing to the petitioner.

3. That if nothing incriminating is found against the petitioner then the respondent would issue clearance certificate and site plan to the petitioner in accordance with law within a period of 75 days.

*That the impugned letter dated 05.09.2014 stands vacated.*

*Petition along with listed applications stands disposed of.”*

5. Muhammad Anis Khan continued as the Franchisor of SPL from 2011 until his demise on 4 June 2016. At the time of his demise he left behind the following persons as his legal heirs:

S.No.	Names of Legal heirs	Relation
1.	Firdous Begum	Mother
2.	Muhammad Israr Khan	Brother
3.	Farhat Tabassum	Sister
4.	Nuzhat Ishtiaq	Sister
5.	Nighat Siddiqui	Sister
6.	Muhammad Nadeem Khan	Brother
7.	Muhammad Waseem Khan	Brother

SMA No.170 of 2016 was maintained before this Court and which was granted on 14 April 2017 and where after one of the legal heirs i.e. the Appellant had approached SPL to be appointed as the Franchisor afresh. It seems that this request was acceded to and the Appellant was appointed as the Franchisor of SPL for a period commencing from 20 June 2016 and expiring on 19 June 2019 in the following terms:

" ... "22 June, 2016

KY-408

Muhammad Wasim Khan  
Creek Vista Service Station. No 208/1,  
16<sup>th</sup> Street DHA Phase & Karachi

*Retailer Appointment Letter*

*Dear Sir,*

*We are pleased to confirm your appointment as our Retailer for our retail outlet "Creek Vista Service Station" situated at Plot No 208/1 16TH Street DHA Phase 8 Karachi. In accordance with the terms and conditions, stipulated in the Retailer Franchise Fee Agreement dated 20-June-2016 (the "Agreement") executed between Shell Pakistan Limited (the "Company") and yourself. Your appointment is valid till 19-June-2019.*

*As a Retailer of the Company, we would expect you to diligently and faithfully, observe the terms and conditions of the Agreement, the requirements and standards set out in the Site Policy & Procedure Manual as amended from time to time and instructions given to you by the Company. Moreover, you shall endeavor to promote and extend the business interests of the Company.*

*We look forward to a mutually beneficial business relationship and wish you best of luck in managing the business."*

5. On 16 May 2017, a letter was written by DHA to SPL and which states as hereinunder:

" ... 1. As per clause 1.1. of License Agreement for following Sites Mr. Anees Khan S/O Muhammad Jamil Khan was appointed as retailer of the said facilities.

a. Petrol Pump at PP-18-A, 35<sup>th</sup> Street Phase V, DHA  
b. Petrol Pump at 208/1 & 208/II, 16<sup>th</sup> Street, Ph-VIII

2. Now it come to the notice of DHA that above named retailer has expired. Therefore, it is intimidated that DHA is interested to run the sites by itself as Retailer. Please arrange for all necessary arrangements including handing. Taking over of the sites as well as the Franchise Agreement.

3. Forwarded for necessary Action."

6. SPL after having received the above-mentioned letter issued a letter dated 12 July 2007 to the Appellant stating as hereinunder:

" ... This is with regards to the Shell Pakistan Limited (hereinafter referred as "Company") situated on the Plot bearing No.208/1 and 2018/2 16<sup>th</sup> Street, Phase-III, DHA Karachi where you were appointed as the Authorized Retailer vide Retail Franchise Agreement dated 20<sup>th</sup> June, 2016 that was signed between you and Shell Pakistan Limited after the said demise of your brother Mr. Anis Khan who was your predecessor retailer vide Retail Franchise Agreement dated 25<sup>th</sup> December 2012.

*Please note that the Licensor authority of the said plot, Defence Officers Housing Authority (hereinafter referred as "DHA"), has shown its*

interest to run the site by itself and has communicated such request to us through letter dated 16<sup>th</sup> May, 2017 and the legal notice dated 29<sup>th</sup> June, 2017. Despite the company has reservations towards the contentions raised by DHA through the notice which will be replied to separately and without prejudice to our rights to appoint the Retailer the Company has decided to terminate the Retail Franchise Agreement signed between you and the company and terminated your retailer ship w.e.f 25 August, 2017 within 45 days' notice period, which is allowed to you in consideration of your satisfactory and compliant performance as the authorized retailer of the company (the letter 16<sup>th</sup> May, 2017 and legal notice dated 29<sup>th</sup> June, 2017 are annexed herewith for your reference.

You are kindly advised to vacate the site by or before 25<sup>th</sup> August, 2017 failing which Shell Pakistan Limited shall be at liberty to take all appropriate legal measures at your sole risk, costs and consequences and without prejudice to any rights, damages or other remedies which SPL may have under law or otherwise. In addition SPL shall also not be liable for any action taken by the DHA in getting the site vacated and you shall be liable to indemnify and hold harmless Shell Pakistan Limited against all costs, expenses and damages (whether forcible or not). That Shell Pakistan Limited may incur as a result of your none vacation of the site by 25<sup>th</sup> August, 2017.

Whatever stated herein above is "without prejudice" to our rights and liberties before the competent authority and judicial forums."

7. The Appellant impugned the letter dated 16 May 2017 issued by the Respondent No. 1 and the letter dated 12 July 2017 issued by the Respondent No. 2 and maintained Suit No.1919 of 2017 seeking the following relief:

- " ...
- a. Declare that the Defendant No.1 being a body constituted, under the Pakistan Defence Officers Housing Authority Order, 1980 has no lawful authority or jurisdiction to operate and manage a petrol pump/CNG station as a Retailer or otherwise.
  - b. Declare that the Defendant No.1 cannot lawfully direct or compel the Defendant No.2 to terminate the Retail Agreement entered into between the Plaintiff and the Defendant No.2.
  - c. Declare that the Agreement dated 09.08.12 between the Defendants No.1 and 2 create a vested right and interest in land/petrol pump/CNG station constructed at Plot Nos.208/1 and 208/II, 16<sup>th</sup> Street, DHA, Phase 8, Karachi, in favour of the Defendant No.2 and the Plaintiff which could not be lawfully terminated before the expiry of the term of the said Agreement.
  - d. Declare that the Retailer Franchise Fee Agreement dated 20.06.2016 between the Defendant No 2 and the plaintiff is legally valid and binding till its expiry.
  - e. Declare that letters dated 16.05.17 and 12.07.17 by the Defendants No.1 and 2 respectively are arbitrary, illegal, mala fide and void and the same are liable to be set aside and/or quashed.
  - f. Permanent injunction against the Defendants and persons acting under them prohibiting them from terminating the retailership of the Plaintiff and/or interfering with the Plaintiff's peaceful possession and running of the petrol pump/CNG station on the plot.
  - g. Grant any other relief as this Hon'ble Court may deems fit and proper.
  - h. Grant cost of the suit."

8. On the basis of the above, it would seem that the Appellant has maintained this Suit *inter alia* contending that:

- (i) the Appellant had acquired rights as a licensor coupled with interest on account of investments made by Muhammad Anis on the Said Property;
- (ii) that the Appellant had a vested right in the Said Property on the basis of the License Agreement dated 9 August 2012 that had been entered into between the Respondent No. 1 and the Respondent No. 2;
- (iii) that the Appellant could not be removed as a Franchisor until the expiry of the Franchise Agreement dated 20 June 2016; and
- (iv) independently of the Appellants rights under the Franchise Agreement had maintained a prayer for a declaration as against the DHA that under the provisions of the DHA Order of 1980 that the DHA did not have the jurisdiction to undertake the business of operating a petrol pump.

6. CMA No. 11785 of 2017, being an application under Order XXXIX Rule 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908, was maintained in Suit No 1919 of 201 by the Appellant and in which the Appellant obtained interim orders from this Court restraining his dispossession from the Said Property. The application came up for hearing on 6 March 2024 before a learned single Judge of this Court and who while hearing CMA No. 11785 of 2017 also dismissed the suit stating that whatever the rights of the Plaintiff had in terms of the Franchise Agreement dated 20 June 2016 had lapsed on the expiry of the term of that agreement and where after the suit seeking to enforce the terms of such agreement and any ancillary rights had been rendered infructuous.

7. Mr. Ishrat Zahid Alvi appeared on behalf of the Appellant and argued that the nature of rights conferred by the DHA to SPL, while indicated in the agreement as a License, were in fact that of a lease and to which he claimed rights as a Sub-Lessee. In the alternative he contended, that as the construction that existed on the Said Property as erected at the expenses of deceased Muhammad Anis Khan and hence under section Sub-Section

(b) of Section 66 of the Easement Act, 1882 he should be considered as licensee having an interest in the Said Property and hence could not be dispossessed.

8. Mr. Salman Javed Mirza has entered appearance on behalf of SPL and has denied that SPL had any rights as a Lessee of the DHA and were as per their agreement, Licensees of the Said Property. He further contended that after expiry of the Franchise Agreement on 19 June 2019, no fresh Franchise Agreement has been entered into as between SPL and the Appellant and that the Appellant's possession of the Said Property was at best that of a trespasser.

9. Mr. Malik Naeem Iqbal has entered appearance on behalf of DHA and clarified that while the DHA had requested SPL to appoint Muhammad Anis Khan to operate the Petrol Pump on the Said Property, such rights held by him were personal to Muhammad Anis Khan and could not devolve upon his legal heirs including, but not limited to, the Appellant. He contended that the term of the Franchise Agreement as between SPL and the Appellant had expired and as such this Suit was no longer maintainable and had been correctly been dismissed.

10. We have heard Mr. Ishrat Zahid Alavi, Mr. Malik Naeem Iqbal and Mr. Salman Javed Mirza and have perused the record.

11. We have examined prayers clause (b), (c), (d) and (e) as pleaded in Suit No. 1919 of 2017 and each of which seek declaratory relief in respect of the rights of the Appellant under a Franchise Agreement that was entered into as between the Appellant and SPL and the injunctive relief as pleaded in clause (f) to restrain the termination of the same Franchise Agreement during the term of that agreement and which period has admittedly expired on 19 June 2019. To our mind as in respect of each of these prayers, the Franchise Agreement having expired, there is as such no actionable cause that remains in Suit No. 1919 of 2017 in favour of the Appellant and which rights have by efflux of time expired on 19 June 2020, during the pendency of Suit No. 1919 of 2017.

13. While we are clear that to this extent that Learned Single Judge has correctly decided the *lis*, we note that no adjudication whatsoever has been made by the learned single Judge in respect of clause (a) of the prayer clause in Suit No. 1919 of 2017 and which reads as hereinunder:

“ ... a. Declare that the Defendant No.1 being a body constituted, under the Pakistan Defence Officers Housing Authority Order, 1980 has no lawful authority or jurisdiction to operate and manage a petrol pump/CNG station as a Retailer or otherwise.”

While the remaining prayers, as maintained by the Plaintiffs, in Suit No. 1919 of 2017 relate to obligations as between the Plaintiff and SPL under the Franchise Agreement, this prayer stands alone not seeking any personal relief for the Appellant but rather seeks a declaration that the DHA could not perform a function which it is contended was outside its jurisdictional competence under the Pakistan Defence Officers Housing Authority Order, 1980 (Order 7 of 1980). Whether or not such declaratory relief can be granted in a suit has been considered by a Division Bench of this Court in the decision reported as **Arif Majeed Malik & others V/S Board of Governors, Karachi Grammar School**<sup>1</sup> and wherein it was held that:

“ ... 18. We have given our anxious consideration to the question involved after having noticed that both views, as to section 42 being exhaustive or otherwise have been taken by superior Courts in the subcontinent. Possibly one reason for divergence of judicial opinion appears to be that when the Specific Relief Act was enacted in 1877 the concept of rights which could be enforced through Courts was largely confined to "status" as understood in a feudal social context or rights pertaining to property in a laissez-faire economy. With the development of jurisprudence over more than a century a large number of other rights which did not strictly speaking, relate to status of an individual or deal with tangible property came to be recognized by law and some of them in the form of guaranteed fundamental rights. The right of privacy, to carry on the business of one's choice, access to public information and, large body of social and cultural rights neither relate to status in the traditional sense nor tangible property. Keeping in view the well-settled principle that wherever there is a right there must always be a remedy to enforce it persuaded Courts not to remain bound within the technicalities of section 42 for the purposes of granting relief.

19. Moreover, Article 4 of the Constitution guarantees to every citizen the inalienable right to be treated in accordance with law. This guarantee, which has been often described as embodying the right of law does not operate merely against the instrumentalities of the State. Article 5 stipulates obedience to the law and the Constitution as the inviolable obligations of every citizen. It would indeed be anomalous to suggest that a victim of illegal action has to go without redress because, sub-Constitutional legislation does not lay down the mode for enforcing his rights. For this reason too, we are persuaded to hold that the view that the provisions of section 42 of Specific Relief Act are not exhaustive seems to be preferable. ...

22. In the circumstances, we are inclined to take the view that even when the respondent is not a department of the Government or an institution substantially owned and managed by it, an element of public duty to impart proper education to students who fulfill the fee requirement and agreed to abide by the disciplinary and other regulations of the school is always present. Such duty like all public powers must be exercised fairly and honestly irrespective of any strict legal right existing in favour of the students. Such duty would amount to an obligation in terms of section 3 of the Specific Relief Act, which could always be enforced through a perpetual injunction under section 54. In *Muhammad Ilyas Hussain v. Cantonment Board, Rawalpindi* PLD 1976 SC 785 the

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*Honourable Supreme Court held that even if declaratory relief could not be granted under the law the prayer for injunction could be treated as independent relief and could always be granted. It would therefore, follow that even if the appellants are found not to be entitled to a declaration as to their entitlement it was always possible for the Court to grant permanent injunction preventing the respondent from violating their obligations ordained by law as held in Arshan Bi v. Maula Bakhsh 2003 SCMR 318."*

It has therefore been held that it is open for a person to maintain a suit to challenge an illegal action of a public official and which "would amount to an obligation in terms of section 3 of the Specific Relief Act, which could always be enforced through a perpetual injunction under section 54." Interestingly, while no prayer for an injunction has been maintained by the Plaintiff seeking to restrain the DHA from performing such an act, the prayer being maintainable under Section 42 of the Specific Relief Act 1877, it would remain to be seen as to whether two such distinct causes of action could be consolidated and maintained in one Suit by the Plaintiff.

14. The provisions of Order II Rule 3 of the Code of Civil Procedure, 1908, which regulates the consolidation of causes of actions reads as hereinunder:

" ... 3.- (1) *Save as otherwise provided, a plaintiff may unite in the same suit several causes of action against the same defendant, or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly may unite such causes of action in the same suit.*

(2) *Where causes of action are united, the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregate subject matters at the date of instituting the suit."*

This rule came to be interpreted by our learned brother Adnan Iqbal Chaudhry, J. in an unreported decision in Suit No. 2316 of 2021 entitled **Muhammad Farhan Wazir & Others vs. Federation of Pakistan & Others** and where, when a suit had been maintained against numerous defendants in respect of distinct causes of action, it was considered and held as hereinunder:

" ... 5. *The prayers made in the plaint are broadly worded and include:*

(i) *a declaration that plots reclaimed by the DHA from the sea vest in the Federal Government and can only be used for port activities; to restrain the occupying Defendants from using such plots; to cancel such plots; and to deliver possession to the Federal Government; to restore the plots for planting mangroves;*

(ii) *a declaration that use of defense land by the PAF and the Cantonment Boards for commercial purposes is unlawful; to restrain the occupying Defendants from using such land; to cancel such plots;*



(iii) to declare that wedding marquees near the airport pose a threat to flight safety and to restrain the same;

(iv) a direction to refer to the NAB the case of the officers of the DHA and the Cantonment Boards involved in the illegal conversion of State land;

(v) a direction for demolition of illegal construction on plots occupied by the Defendants 12 to 34; and so on.

6. The discussion above is to show that the Plaintiffs have apparently joined in one suit several causes of action. Therefore, at the hearing, the foremost ground urged by the Defendants for rejection of the plaint was that the suit is bad for multifariousness. I take up that ground first. ...

10. The CPC deals with misjoinder of parties differently from misjoinder of causes of action. Misjoinder of parties can be addressed under Order I Rules 2, 4 and 5 CPC; and as per Order I Rule 9 CPC, no suit shall be defeated by reason of the misjoinder or non-joinder of parties. Joinder of causes of action on the other hand is dealt by Order II Rule 3 CPC which provides as follows:

**“Joinder of causes of action.—**(1) Save as otherwise provided, a plaintiff may unite in the same suit several causes of action against the same defendant, or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly may unite such causes of action in the same suit.

(2) .....

Order II Rules 4 and 5 CPC then provide exceptions to joinder of causes of action. Order II Rule 6 CPC provides that “Where it appears to the Court that any causes of action joined in one suit cannot be conveniently tried or disposed of together, the Court may order separate trials or make such other order as may be expedient.”

11. A diligent reading of Order II Rule 3 CPC reveals that while it permits joinder of several causes of action, it is not so without limitations. The first limitation is that where there is more than one plaintiff, all of them have to be “jointly interested” in all the causes of action. The second limitation, and the one relevant here, is that where there is more than one defendant the several causes of action must be against all of them “jointly”. In other words, Order II Rule 3 CPC does not permit joinder of several causes of action where the plaintiffs and defendants are not jointly interested, or where some causes of action are against one set of defendants and some against another set of defendants. A similar view was taken by a learned Division Bench of the Balochistan High Court in *Abdus Samad Badini v. Political Agent & Returning Officer, District Chaghi* (1984 CLC 564). In *Chandi Prasad Sikaria v. Premlata Nahata* (2005 SCC OnLine Cal 281), cited by learned counsel for the Defendants, a Division Bench of the Calcutta High Court too observed that Order II Rule 3 CPC, as Order I Rule 1 CPC, is not free from limitations. Indeed, if that were not so, then different sets of plaintiffs may well bring one suit on different cause of action against different sets of defendants thereby frustrating the scheme of the CPC. While the purpose of Order II Rule 3 CPC is obviously to avoid unnecessary multiplicity of suits, **it is not intended to embarrass the trial or to vex a defendant who has no connection with a particular cause of action.**

12. Ergo the joinder of causes of action that is not permitted by Order II Rule 3 CPC is a suit that is referred to as “bad for multifariousness”. The argument that “multifariousness” is not a law that bars a suit within the meaning of Order VII Rule 11(d) CPC was rejected in the case of *Chandi Prasad Sikaria* holding that the law in question would be the rule prohibiting multifariousness. I too am inclined towards the same view. In any case, the observation of the Supreme Court in *Mumtaz Khan v. Nawab Khan* (2000 SCMR 53) that a plaint can be rejected under Order VII Rule 11 CPC if bad for multifariousness, though obiter dicta in that case, is nonetheless binding on the High Court.

13. As noted at the outset, the Plaintiffs have joined several causes of action in this one suit. Though each plot arraigned in the suit is a distinct subject and constitutes a separate cause of action, it can be argued that the suit is within the first limitation of Order II Rule 3 CPC as all Plaintiffs are jointly interested in the public cause. However, the plots are occupied by different defendants under separate agreements. While some of the defendants may have acquired rights from a common defendant and may be jointly interested in common questions of law and fact, there are other defendants who are not. As for example, the DHA and the defendants who claim through it, have no joint interest in the plots of and causes of action against the PAF, the CAA, the Malir Cantonment and the defendants who claim through them, and vice versa. When the joinder of several causes of action is such that some of them are against one set of defendants and some against another and not all defendants are jointly interested in all of the causes of action, the plaint is clearly beyond the second limitation imposed by Order II Rule 3 CPC i.e. bad for multifariousness, and can be rejected as discussed above.

14. Can the plaint be saved from rejection by virtue of Order II Rule 6 CPC which empowers the Court to order separate trials or to make "such other order as may be expedient"? In my humble view, Order II Rule 6 CPC is available only when the joinder of causes of action is within the limitations imposed by Order II Rule 3 CPC and the Court then feels that one or more of the causes of action cannot be conveniently tried or disposed of together. Order II Rule 6 CPC is not intended to say that even if the joinder of causes of action is beyond the limitations imposed by Order II Rule 3 CPC, the Court can nonetheless order separate trials or step into the shoes of the plaintiff to remedy the defect by other means, for that would make Order II Rule 3 CPC redundant.

15. Having concluded that the joinder of causes of action goes beyond the joinder permitted by Order II Rule 3 CPC, the plaint is rejected under Order VII Rule 11(d) CPC. Consequently, I do not consider the other grounds urged for rejection of plaint. By virtue of Order VII Rule 13 CPC the Plaintiffs are free to explore separate suits."

We find ourselves in agreement with the principles of law as enunciated in this order. While the purpose of the rule, as correctly identified, is to prevent multiplicity of litigation; that principle cannot be stretched to the point where plaints are maintained and in which "some causes of action are against one set of defendants and some against another set of defendants." As is apparent this is exactly what has happened in Suit No. 1919 of 2017. While pursuing his relief in respect of obligations under a Franchise Agreement entered into by him with SPL i.e. prayer clauses (b), (c), (d), (e) and (f), the Plaintiff has maintained prayer clause (a) as against the DHA being a completely distinct cause of action and which relates to whether or not the DHA had the jurisdictional competence under the Pakistan Defence Officers Housing Authority Order, 1980 (Order 7 of 1980) to carry on the business of a petrol pump and which clearly has no nexus whatsoever with the Plaintiffs obligations under the Franchise Agreement with SPL. We are therefore clear that the joinder of such distinct causes of actions against different defendants would render the Suit as "bad for multifariousness"

15. While noting that the Learned Single Judge had correctly held that prayer clauses (b), (c), (d), (e) and (f) had been rendered infructuous on the

lapse of the term of the Franchise Agreement, we note that no order has been passed in respect of prayer clause (a) and which remained unattended in the order impugned in this appeal. We are therefore obliged to consider the remaining prayer as maintained to see whether or not it would, in the context of the remaining prayers, constitute an entirely separate cause of action or not and we have no hesitation in saying that as prayer clause (a) could be decided without any reference to the other prayer clauses in Suit No. 1919 of 2017 we would therefore reach the conclusion that it was an independent cause of action and would have therefore caused the plaint to have not been maintainable for “multifariousness” and which, as per the decision of the Supreme Court of Pakistan reported as **Mumtaz Khan v. Nawab Khan**,<sup>2</sup> had rendered Suit No. 1919 of 2017 as being liable to being rejected under Clause (d) of Order VII Rule 11 of the Code of Civil Procedure, 1908 and not to have been dismissed.

16. In view of the hereinabove facts and circumstances of the case, even if we were to hold that the suit ought not to have been dismissed as above to the extent of the prayer against DHA, but in any event, the plaint was to be rejected under Clause (d) of Order VII Rule 11 of the Code of Civil Procedure, 1908 and therefore no useful purpose would have been served by remanding the matter to the learned Single Judge for such a purpose. In view of such a position, this Appeal was dismissed by mean of a short order dated 4 September 2024 and these are the reasons thereof.

JUDGE

JUDGE

Karachi dated 28 September 2024

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<sup>2</sup> 2000 SCMR 53