

IN THE HIGH COURT OF SINDH KARACHI

Const. Petition No. S-1363 of 2025
(Amjad Javed – v Fazeel Ahmed Sarwer)

Date _____ Order with signature(s) of Judge(s) _____
Hg: / Priority.

1. For orders on office objections.
2. For hearing of Misc. No.8631/25
3. For hearing of main case.

03.12.2025.

Mr. Abdul Qadir Khan, Advocate for the Petitioner.

ORDER

Nisar Ahmed Bhanbhro, J. Through this petition, petitioner has called in question the order dated 14.11.2025 passed by the VII-Additional District & Sessions Judge Karachi-South (re: Amjad Javed – v – Fazeel Ahmed Sarwar) and order dated 07.10.2025 passed by the XIIth Senior Civil Judge Karachi-South (re: Fazeel Ahmed Sarwar – v – Amjad Javed) wherein application under Section 151 CPC filed for recording evidence through electronic means was allowed.

2. Learned counsel for the petitioner contends that to notice the authenticity of the witness it is necessary that he be present in Court. He further contends that recording evidence through video link will prejudice the case of the petitioner and that the courts below failed to appreciate this important aspect of the matter. He also submits that the respondent is attempting to linger on the matter by filing interlocutory applications. He, therefore, prayed for dismissal of this petition.

3. Despite service of notice of this petition, none is in attendance on behalf of the respondent, therefore, this case is decided with the able assistance of Mr. Abdul Qadir Khan, counsel for the petitioner.

3. The controversy involved in this petition is that the trial Court allowed an application under Section 151 CPC, wherein the respondent prayed to record evidence through video link from Singapore. Section 151 CPC empowers the Court to exercise its powers vested in it to faster the cause of justice. Recording of evidence through video link in any case is permissible to safeguard the right of the parties as in the absence of evidence the case cannot be decided on merits. It is always for the courts seized with the matter to decide the question of admissibility evidence in terms of powers conferred under Article 131 of Qanoon-e-Shahadat Order, 1984. Since the respondent was residing in Singapore he intended to avail the facility of modern devices for proceeding in the case and such facility is available now days in every part of the world. This facility rendered assistance to the court in early disposal of the cases. Article 164 of Qanoon-e-Sahadat

provides that the evidence recorded through electronic means is admissible. Even under Article 162 of the Qanoon-e-Shahadat Order, 1984, the admission or rejection of an improper piece of evidence does not amount to an illegality or irregularity requiring a de-novo trial, and such a defect can be cured at any stage. Since, in the present matter, the evidence of the parties has yet to be recorded, the trial Court is well within the parameters of law to determine the mode of recording evidence whether by securing the presence of the parties before the Court or through electronic means. The recording of evidence through electronic mode does not prejudice the case of either side. In the civil cases evidence is always documentary in nature where the documents itself speak as a witness, therefore, trial Court is rightly allowed the application for grant of permission to record evidence through electronic means. No illegality or infirmity pointed out in the orders passed by the court below. This petition therefore fails and is accordingly dismissed with no order as to cost alongwith pending applications.

JUDGE