

Judgment Sheet
IN THE HIGH COURT OF SINDH, KARACHI

High Court Appeal No.314 of 2017
(Shapes (Pvt.) Ltd. Vs. Cantonment Board & another)

Hg. (Priority) case

1. For orders on office objection
2. For hg. of CMA No.2829/2017
3. For hg. of main case
4. For hg. of CMA No.2263/2017

12.11.2025

M/s. Myhar Kazi and Zahid Ali Sahto, advocate for appellant
Mr. Abdullah Munshi, advocate for respondent No.1
Syed Samiullah Shah, advocate for Pakistan Railways
Mr. Khaleeq Ahmed, DAG

JUDGMENT

Muhammad Iqbal Kalhoro, J:- Appellant filed a suit against respondents for declaration & permanent injunction challenging essentially the notices issued by respondent No.1 seeking demolition of a building purportedly constructed by the appellant on railway land, where the appellant is housed presently.

2. In the said suit, applications under Order XXXIX Rule 1 & 2 CPC, under Order VII Rule 11 and Order XXXIX Rule 4 CPC were filed by the parties. All these applications were heard and decided through the impugned order, whereby the appellant's application u/o XXXIX Rules 1 & 2 CPC was dismissed, whereas, application u/o VII Rule 11 CPC was dismissed as not pressed and application u/o XXXIX Rule 4 CPC was allowed.

3. We have heard learned counsel for the parties. It appears that suit is pending since 2015, and even the issues have not yet been framed. During the arguments, Mr. Abdullah Munshi, learned counsel for respondent No.1, has submitted that till the suit is pending, the building will not be demolished; however, certain time may be given for disposal of the suit, which proposal has been accepted by the counsel for the appellant.

4. We, therefore, dispose of this appeal with a direction to the trial Court to conclude the trial within six months. Till that period, demolition of the subject building, in terms of impugned notices, shall not take place. However, if the trial is not concluded within six months due to delay caused by the appellant or for any reason shown by the appellant, which is non-satisfactory,

the protection granted through this order would stand vacated. The parties would, however, be at liberty, to move any miscellaneous application other than one u/s 39 Rules 1 & 2 CPC for stay before the trial Court, which if filed, shall be decided on its own merits.

5. Before parting with this order, we may observe that whatever findings are made in the impugned order shall be treated as tentative and made only in the context of interlocutory applications. The trial Court shall decide the suit purely on merits in accordance with law

This High Court Appeal is disposed of in above terms along with pending application

JUDGE

JUDGE

Rafiq/P.A