

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit No. 1654 of 2016

DATE ORDER WITH SIGNATURES OF JUDGE(S)

- For hearing of CMA No.10581/2016.

08.08.2016

Mr. Rashid Anwar, advocate for plaintiffs
alongwith Barrister Mustafa Ali, advocate.

The learned counsel contends that similar suits were also initiated sometime in 2014 where levy of Income Tax on 'Bonus Share' was challenged and prayers were made that the said levy be declared ultra vires of the law and Constitution. By his judgment, reported as 2016 PTD 622, the learned Single Judge of this Court framed two issues; (1) whether the suit is not maintainable being barred by law; and (2) whether Section 2(29), 39(1)(M), 236-M and 236-N of the Income Tax Ordinance, 2001 are ultra vires of the law and the Constitution? Through the above referred detail judgment, the learned Single Bench dismissed those suits alongwith all pending applications declaring that the bonus shares are lawfully considered as taxable.

Learned counsel further submits that the plaintiff in those suits later filed High Court Appeal (H.C.A No. 263/2015) wherein, in terms of order dated 18.09.2015, operation of the impugned judgment was suspended and the defendants were ordered that no recovery proceedings shall be instituted against the appellants.

Per above reasoning, it seems that the instant suit is clearly barred by res judicata, I thus find it prudent that as already

decided by the learned Single Bench of this Court in an identical matter that such levy is intra vires of the law and Constitution, I dismiss the instant suit in limine as per the detailed reasoning given in the above referred judgment, which should be construed to be passed in the instant suit also.

There is no order as to the costs.

JUDGE

Barkat Ali/PA