ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

Criminal Miscellaneous Application No.S- 421 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objection
2. For hearing.

15.12.2016.

Mr. Ghulam Nabi Meo, Advocate for applicant.

Shahzado Salim Nahyoon, A.P.G for the State alongwith Inspector Mubarak Ali SHO P.S Chachro.

-.-.-.

Mr. Jamshed Mari, Advocate, files vakalatnama on behalf of respondent No.1, which is taken on record.

This matter was heard earlier in the day when the father Fida Hussain (Respondent No.1) was directed that Farman Ali Shah, the alleged detainee, should meet the applicant.

On a query that primarily the question involved in the matter is custody of minor Farman Ali Shah, who cannot be termed as detainee as he is living with his father Fida Hussain (Respondent No.1), learned Counsel for applicant did not contest this factual aspect any further, but states that seeing the tender age of the minor (Farman Ali Shah), his interim custody be handed over to his real mother Shazia Syed (Applicant). He has relied upon judgment of Hon'ble Supreme Court reported in 2015 SCMR 731 and of this Court reported in 2016 MLD 29 besides two other reported cases of learned Lahore High Court.

The Hon'ble Apex Court in the above reported judgment while setting aside the *ex parte* decision of the Guardian Court has issued directions that the Guardian Court will rehear all the parties concerned and in the intervening period the custody of the minor, who was of tender age, was given to the mother. I intend to dispose of this case in the same terms, however, with certain additions

which are necessary owing to the peculiar facts of the present case. Therefore, it is ordered that minor Farman Ali Shah, who is of tender age (around three years), henceforth will live with applicant Shazia Syed till such time the respondent No.1 (Fida Hussain), the real father of minor, either files a proper proceeding before the concerned Guardian Court for hizanat/custody of minor and when such a proceeding is filed, the concerned Guardian Court will be at liberty to regulate the question of interim custody. However, if some order is passed under Section 12 of the Guardian and Wards Act, 1890, and the same is flouted by the applicant, the learned Guardian Court will treat such violation as disobedience.

Since marriage of both applicant and respondent No.1 is intact, therefore, applicant will allow the respondent No.1 (Fida Hussain) to meet the minor at the residence of applicant but there the applicant will ensure that no untoward incident takes place against respondent No.1.

It is also expected that both learned Counsel representing the parties will make sincere efforts for reconciliation between Applicant and Respondent No.1, at least in the best interest and welfare of minor Farman Ali Shah.

With the above observation and directions, instant Criminal Miscellaneous Application stands disposed of.

JUDGE

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

C.P No.S-1967 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objection
2. For orders on M.A 17822/16
3. For Katcha Peshi.

15.12.2016.

None present for the petitioner.

Mr. Ashfaque Nabi Kazi, Assistant A.G alongwith Inspector Muhammad Iqbal, SHO P.S B-Section Nawabshah.

-.-.-.

Today, this matter is taken up in the afternoon as the concerned SHO was not present in the morning and according to learned A.A.G he was occupied in his some official duty. Inspector Muhammad Iqbal, SHO P.S B-Section Nawabshah has submitted a Statement, *inter alia,* wherefrom it appears that between petitioner and private respondents there is a dispute of inheritance and according to concerned SHO, owing to serious law and order situation amongst the private parties, the house/property has been sealed under Section 145 of Cr.P.C and a report whereof has been submitted before the concerned Civil Judge & Judicial Magistrate-II, Nawabshah, for further decision of the learned Magistrate.

Mr. Maqsood Ahmed Malik, Advocate, files vakalatnama on behalf of Respondent No.5 (Sher Afzal) and according to him, said respondent No.5 cannot cause any harassment to the petitioner, as he is an old person.

No one is in attendance from the petitioner's side and on first date of hearing also same was the position but owing to the fact that life and liberty of petitioner was involved the matter was taken up by way of an indulgence and order was passed.

Be that as it may, since the law has taken its course, in view of the above, this petition is disposed of alongwith listed application but with the directions that no harassment will be caused to the petitioner and vice versa

JUDGE

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

C.P No.S-1878 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE
	1. For orders on office objection 2. For orders on M.A 16793/16 3. For Katcha Peshi.

15.12.2016.

Mr. Waqar Zaur, Advocate for petitioner.

Mr. Ashfaque Nabi Kazi, Assistant A.G alongwith Inspector Sajjad Bhatti on behalf of SSP Matiari, SIP Ghulam Mustafa Laghari, SHO P.S Bhitshah and SIP Muhammad Laiq Bhutto, P.S Hala.

-.-.-.

Today, official respondents No.5,6,7, the concerned SHOs of P.Ss Matiari, Hala and Bhitshah, are present in Court and have categorically denied that they have patronized the respondents in causing harassment to the petitioner.

Counsel for petitioner submits that between private respondents and petitioner already a civil dispute is *sub judice* before the Court but whenever the petitioners appeared in the matter he has subsequently been harassed.

This petition is disposed of alongwith with the direction that concerned police officials will discharge their functions in accordance with law and will provide protection to the petitioner strictly in a lawful manner whenever they are approached with such a request. It is further directed that private respondents namely; Ali Ahmed, Mansoor Ahmed and Maqsood Ahmed shall not cause any harassment to the petitioner in any manner whatsoever. Copy of this order shall be served upon above named private respondents by Inspector Sajjad Bhatti who will submit a report in this regard before this Court within 10 days from today.

On pointation of learned A.A.G, it is clarified that earlier order passed by the learned Sessions Judge, Matiari, which is available at Page-27, shall remain intact.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

C.P No.S-1720 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objection
2. For Katcha Peshi.
3. for orders as to non-prosecution of M.A No. 17936/16 as notices not issued as cost and copies have not been supplied by the learned Counsel.

15.12.2016.

Mr. Ashfaque Nabi Kazi, Assistant A.G alongwith SIP Inayatullah Laghari, P.S Tando Ghulam Ali.

Mr. G.M. Laghari, Advocate for respondents No.6 to 9.

-.-.-.

None present for petitioner though date and time was fixed nor there is any intimation from their side.

Learned Counsel for private respondents No.6 to 9 submits that the said respondents have not caused any harassment to the petitioner nor they will do so in future. It is further stated in the objections filed by the private respondents that primarily dispute relates to some landed property regarding which a F.C.Suit No. 31 of 2014 is *sub judice* before the concerned Court which fact is also mentioned in Paragraph-5 of the memo of petition.

This petition is disposed of alongwith pending application(s), if any, with the above observation and with the directions that police officials will not patronize any individual and will act strictly in accordance with law. Respondents are further directed to desist from causing any harassment to the petitioner and if the civil litigation is pending between the parties that should be pursued in a diligent manner. The petitioner is also directed not to cause any harassment to the private respondents.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

C.P No.S-1968 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

15.12.2016.

Syed Sarfraz Ali Shah, Advocate for petitioner.

Mr. Ashfaque Nabi Kazi, Assistant A.G SIP Muhammad Changal on bhelaf of SSP Hyderabad, Inspector Hadi Bux Shah, P.S Market and SIP Muhammad on behalf of D.I.G Hyderabad.

-.-.-.

Today, respondent No.5 (Hussaini Shahabuddin) is present in person and submits that he is neither causing harassment nor extending threats to the petitioner. He claims copy of the petition which has been provided by the petitioner's Counsel to him in Court. Let the private respondent No.5 file his counter affidavit to the main petition before next date of hearing.

Parawise comments filed on behalf of officials respondents by learned A.A.G are taken on record.

Personal attendance of respondent No.5 as well as that of police officials present today is dispensed with till further orders and the respondent No.5 may file counter affidavit through his Counsel.

Office is directed to fix this matter immediately after winter vacations. Interim order passed earlier to continue till next date of hearing.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

C.P No.S-1536 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

15.12.2016.

Mr. Nazeer Ahmed Bhatti, Advocate holding brief for Mr. Hussain Bux Solangi, Advocate for petitioner.

Mr. Ashfaque Nabi Kazi, Assistant A.G alongwith SIP Raja Tariq Mehmood, SHO P.S Shahra-e-Faisal, Karachi.

-.-.-.

Petitioner's side undertakes to provide copy of the petition today to respondent No.5, the concerned SHO P.S Shahra-e-Faisal, who is present in person and states that earlier he did not receive Court notices and that was the only reason he could not appear before this Court.

Adjourned to 16.01.2017 to be taken up at 01:00 p.m. and on that date SHO P.S Shahra-e-Faisal Karachi will ensure that respondent No.6 (Nadeem) is also present in Court. However, it is clarified that if Court comes to the conclusion that certain facts have not been disclosed or said respondent No.6 has not caused any harassment to the petitioner, then an appropriate order shall be passed against the petitioner for setting the law in motion, as in this matter short adjournments have been given and the time was fixed considering the facts mentioned in the instant Constitutional Petition.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

C.P No.S-1894 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objection
2. For Katcha Peshi.

15.12.2016.

Mr. Tarique Ali Narai, Advocate for petitioner alongwith petitioner.

Mr. Ashfaque Nabi Kazi, Assistant A.G alongwith SIP Mir Muhammad Kaloi, P.S Karyo Ganhwar.

-.-.-.

Today, Mr. Poonjo Ruplani, Advocate, files vakalatnama on behalf of private respondents No.4 and 6, who are also present in Court.

Today, concerned police officer has produced Mst. Nasreen from the custody of Respondent No.4 (Fida Hussain), who claims to be maternal cousin of her father. Mst. Nasreen, who is sui juris, has some complaints about her husband, which has been categorically denied by her husband Ali Murad, who is also present today in Court alongwith petitioner.

The purpose of this petition has been served; the same is disposed of accordingly, however, with a note of caution that respondents will not cause any harassment to the petitioner or husband Ali Murad as well as Mst. Nasreen, in any manner whatsoever.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

Criminal Miscellaneous Application No.S-414 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objection
2. For hearing.

15.12.2016.

Mr. Imran Ali Tunio, Advocate for applicant.

Syed Meeral Shah D.P.G. for the State alongwith ASI Muhammad Dawood P.S A-Section Dadu.

-.-.-.

Today, Mr. Imtiaz Ali Channa, Advocate files vakalatnama on behalf of private respondent No.1, who is also present in Court and has filed detailed parawise comments through his Counsel, in which exam schedule has been filed under which today the minors are taking their respective exams in the school and that is why could not attend the Court.

It has also been acknowledged by the applicant that the respondent No.1 has already filed Guardianship Application No. 30 of 2016 before the concerned Family Court at Dadu, which is fixed for hearing on 23.12.2016 on which date present applicant Mst. Nazeeran Begum will appear in that case and on that day all minors will be present before the concerned Guardian Court to meet their real mother. In this regard, learned Guardian Judge will also consider this fact that if it is observed during meeting that an estrangement seems to be created between real mother and the minors, then the learned Judge seized of the matter will pass appropriate orders of tentative nature by invoking Section 12 of the Guardian and Wards Act.

With the above observation and directions instant Criminal Miscellaneous Application stands disposed of.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

Cr. Bail Application No.S- 136 of 2012
Cr. Bail Application No.S-552 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

15.12.2016.

Mr. Bilawal Ali Ghunio, Advocate for applicant/accused.

Syed Meeral Shah D.P.G. for the State.

Mr. Riaz Ali Panhwar, Advocate for complainant.

-.-.-.

Learned Counsel for applicant/accused submits that the applicant/accused and his surety could not appear in the matter due to illness.

According to Mr. Riaz Ali Panhwar, learned Counsel for complainant, the applicant/accused has neither today appeared in this matter nor on last date of hearing appeared before the learned Trial Court.

Both these bail applications will be fixed according to roster and on next date of hearing the applicant's side will submit medical certificates for the absence of applicant/accused and his surety. If on next date of hearing for any reason the applicant/accused and his surety fail to appear either before this Court or before the Trial Court, without passing any further orders Bailable Warrants shall be issued against them.

Adjourned to a date in office.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

C.P No.S-1665 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

15.12.2016.

Mr. Faisal Nadeem Abro, Advocate for petitioner.

-.-.-.

Mr. Shakil Ahmed Virk, Advocate, files vakalatnama on behalf of respondent No.3, which is taken on record.

Due to paucity of time the matter cannot be heard at length today. However, today Mr. Faisal Nadeem Abro, the learned Counsel for petitioner, has stated that in compliance of the earlier order an amount of Rs.25,000/- in satisfaction of the partial decree of the learned Family Court has been deposited in the Executing Court. By consent the said amount of Rs.25,000/- shall be paid by the Executing Court to respondent No.3.

To come up immediately after winter vacation. Interim order passed earlier to continue till next date

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

C.P No.S-1786 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

15.12.2016.

Mr. Akram Sahito, Associate of Mr. Altaf Hussain Chandio, who represents the petitioners.

Mr. Sher Muhammad Laghari, State Counsel.

-.-.-.

Today, parawise comments have been filed by official respondents, in which they have denied that any harassment is caused to petitioners by official respondents, while undertaking that police officials will provide protection to the petitioners, if they are approached with such a request. In this regard, already on 02.11.2016 an order has been passed.

Today despite directions, private respondents are not present nor the concerned SHO. The contents of petition are somewhat extraordinary, according to which a Jirga was held by private respondents in which it was decided that sister of petitioner No.2 will be given in marriage to the brother-in-law of respondent No.8.

For the time being and subject to the reply of private respondents, I hold that any such Jirga, if held, was void *ab initio* and nullity in the eyes of law and therefore, decision taken in the said purported Jirga is also patently illegal.

Seeing the conduct of the concerned SHO, who was directed to appear twice in earlier orders alongwith private respondents, it is just and proper that office should issue Bailable Warrant of arrest in the sum of Rs.30,000/- for the concerned SHO P.S Pabjo, District Shaheed Benazirabad, with further directions to the concerned SSP to ensure that respondents No.8 and 9 (Nizamuddin and Nasarullah), who were directed to be present in Court, are present on next date of

hearing without fail, failing which necessary action shall be taken against the other senior police officials as well.

To come up on 20.12.2016 at 12:30 p.m.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

R.A No. 78 of 2008

DATE	ORDER WITH SIGNATURE OF JUDGE

For Regular Hearing.

15.12.2016.

Mr. Noor Ahmed Memon, Advocate for respondent No.1.

Mr. Ashfaque Nabi Kazi, Assistant A.G.

-.-.-.

On last date of hearing, one Mr. Riaz Ahmed Memon, Labour Officer of the applicant, appeared and requested for some time to engage a Counsel.

Though in the last order of 23.11.2016 it has been observed that on 15.04.2011 similar request was made, but only in the interest of justice time was granted to the applicant. Originally it was a IInd Appeal of 1996 which was later converted into a Revision Application vide order dated 29.10.2008. The issue involved in the matter is about payment of levy to the respondent No.1-Market Committee Badin. If the record of present proceeding is perused, it appears that applicant's side is not pursuing the matter in a diligent manner; rather there is negligence on their part.

In these circumstances, instant Revision Application is dismissed for non-prosecution.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

IInd Appeal No. 47 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

15.12.2016.

Mr. Naimatullah Soomro, Advocate for Appellant.

-.-.-.

M/s. Sundar Das and Rasheed Ahmed Soomro, Advocates, file powers on behalf of respondents No.1 and 2 and respondent No.3, respectively, and claim copies of this entire IInd Appeal. Counsel for respondents can obtain the sets of this appeal from the Branch and if the same are not available the appellant's Counsel undertakes to provide the same.

The R & Ps in the matter shall be called from the Courts bellow.

To come up after winter vacations. Interim order passed earlier to continue till next date of hearing.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

IInd Appeal No. 58 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

15.12.2016.

Mr. Riaz Ali Panhwar, Advocate for Appellant.

Mr. Ashfaque Nabi Kazi, Assistant A.G.

-.-.-.

Rao Faisal Ali, Advocate, files vakalatnama on behalf of respondent No.1, which is taken on record.

Office is directed to call R & Ps in the matter from the Courts below.

To come up after winter vacations. Interim order passed earlier to continue till next date of hearing.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

C.P. No.S-382 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

1. For orders on C.M.A 19419/16
2. For orders on office objection
3. For Katcha Peshi.
4. For hearing of C.M.A 4893/16
5. For orders on C.M.A 11604/16

15.12.2016.

Mr. Masood-ul-Nabi Bachani, Advocate for respondent No.1.

-.-.-.

It is contended, inter alia, that on account of restraining order passed in the case, the execution proceeding has been stayed. Therefore, urgency is granted. Office is directed to fix this matter on 12.01.2017. However, it is clarified that if petitioner's side on the date fixed fails to proceed with the matter, the stay granted earlier will be recalled.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

C.P. No.S-1853 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

15.12.2016.

Mr. Kanji Mal Menghwar, Advocate for petitioners.

Mr. Ashfaque Nabi Kazi, Assistant A.G.

-.-.-.

Learned Assistant A.G states that he has not received copy of the petition which will be provided by the learned Counsel for petitioners today to him and therefore, he waives notice of this petition.

To come up after two weeks. Interim order passed earlier to continue till next date of hearing.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

C.P. No.S-1859 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

For orders as to non-prosecution of main petition, as notices not issued as costs and copies have not been supplied.

15.12.2016.

Mr. Anwar Rajput, Advocate for petitioner.

-.-.-.

Two days' time is granted to comply with the office note, failing which office is directed to fix this petition for non-prosecution.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

C.P. No.S-1910 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

For orders as to non-prosecution of main petition, as notices not issued as costs and copies have not been supplied by the learned Counsel for petitioner.

15.12.2016.

Mr. Ameenuddin A. Khaskheli, Advocate for petitioner.

-.-.-.

It is submitted by the Counsel that compliance of the office note has been made. In this regard office to submit a fresh report.

Adjourned to a date in office.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

C.P. No.S-1937 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

For orders as to non-prosecution of main petition, as notices not issued as costs and copies have not been supplied.

15.12.2016.

Mr. Faisal Ali Raza Bhatti, Advocate for petitioners.

-.-.-.

Two days' time is granted to comply with the office note, failing which office is directed to fix this petition for non-prosecution.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

C.P. No.S-1955 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

For orders as to non-prosecution of main petition, as notices not issued as costs and copies have not been supplied.

15.12.2016.

None present.

-.-.-.

On 02.12.2016 when this matter came up for the first time, a detailed order has been passed wherein respondents were restrained from causing any harassment to the petitioners. Office note shows that neither copies of the petition are provided nor cost is paid, enabling the office to undertake further steps in the case. It appears that the earlier order has served the objective of the petitioners.

Today none is present on behalf of petitioners to explain such a default on their part as mentioned in the office note and observed hereinabove. Such a delinquent behavior on the part of petitioners is not acceptable, as if anyone, who sets the law in motion, is also liable to complete other formalities. In one of my decisions passed in C.P No.S-1819 of 2016, I have held that such type of cases are consuming time of genuine litigants and therefore, such type of litigation in which *bona fide* of the petitioner is highly questionable should be discouraged.

Consequently, this petition is dismissed being *de void* of any merits.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

R.A No.56 of 2015

DATE	ORDER WITH SIGNATURE OF JUDGE

For orders on C.M.A 2149/16

15.12.2016.

Mr. Ayaz Hussain Chandio, Advocate, holding brief for Mr. Imdad Ali R Unar, Advocate for applicant.

-.-.-.

It is contended, inter alia, that lawful possession of the present applicant has been interfered with by respondents and if this matter is not heard at an early date, valuable interest of applicant shall be seriously jeopardized.

Urgency granted. Office is directed to fix this matter immediately after winter vacation.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

1st Appeal No. 29 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGE

For orders on C.M.A 2140/16

15.12.2016.

Mr. Faisal Nadeem Abro, Advocate for appellant.

-.-.-.

It is contended, inter alia, that appellant is behind bars and therefore, his affidavit could not have been sworn for which learned Counsel has moved an application for appointment of Commissioner so that he can administer oath to appellant for swearing his affidavit in Jail.

Subject to the point of maintainability of this Appeal that whether an appeal of the nature can be filed without filing an affidavit, this application for appointment of Commissioner is granted. Additional Registrar of this Court is directed to appoint any of the Court officials, who is authorized in this behalf for completing swearing of affidavits formalities, to visit the jail alongwith the appellant's Counsel for the purposes of swearing affidavit. This exercise be completed within a week from today.

Before next date of hearing, the Counsel is directed to file all such documents under his statement which show that when the summary suit proceeding had commenced, the present appellant was already behind the bars and for that reason he was unable to swear proper affidavit which became the main ground for passing of the impugned judgment.

At this juncture, it is necessary to observe that this is a first appeal, which is statutory right given to a person and on next date of hearing the Court is to take into account the fact that whether such a statutory right in favour of a

person/appellant can be diluted merely on the ground that affidavit of the appellant is not available with the appeal and the reason for non-swearing such an affidavit is that the appellant is behind the bars. In this regard, *force majeure* factors shall also be considered by the Court before passing the order on the maintainability of instant petition.

To come up after winter vacation.

JUDGE

Ali Haider

ORDER SHEET

IN THE HIGH COURT OF SINDH,

CIRCUIT COURT, HYDERABAD

IInd Appeal No.28 of 2010
IInd Appeal No.31 of 2010

DATE	ORDER WITH SIGNATURE OF JUDGE

15.12.2016.

Mr. Sundar Das, Advocate for appellant in IInd Appeal No. 28/2010.

M/s Naveed Ahmed Khan a/w Mr. Farooque Hashmat and Adnan Ahmed Khan, Advocates for appellant in IInd Appeal No. 31/2010 and for respondent No.1 in IInd Appeal No. 28/2010.

-.-.-.

The matter is to be adjourned owing to the fact that R & Ps of these IInd Appeals are not available, though on 25.10.2010, there was a specific order that R & Ps shall be called from both the Courts below. Office is directed to ensure that R & Ps in terms of the earlier order are called and tagged with these IInd Appeals so that they can be proceeded further. In this regard office is also cautioned to discharge their functions in a due diligence manner as the above order should have been complied by now.

Adjourned to 12.01.2017 (immediately after winter holidays).

JUDGE

Ali Haider