

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

**Suit No.233 of 2012**

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**Date**

**Order with signature of Judge**  
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For orders on CMA No.12750/2017.

**19.09.2017**

Khawaja Shams-ul-Islam, Advocate for the Plaintiff.  
Mr. M. A. Isani, Advocate for the Defendant No.1.

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Counsel for the plaintiff has moved the urgent application which is granted.

Through this suit for declaration, specific performance, injunction, recovery of outstanding dues as well as recovery of damages, the plaintiff has sought the declaration that according to the interpretation of the Implementation Agreement executed between the plaintiff and the defendant No.1 on 03.09.2007 the plaintiff alone is entitled to receive and collect the berthage/wharfage, mooring fees and charges from the vessel berthed at the plaintiff's dedicated Grain and Fertilizer Terminal constructed on BOT basis. The counsel for the PQA (defendant No.1) has filed application under Section 34 of the Arbitration Act with the prayer that the suit be stayed and order may be passed for reference to the arbitrators for resolving the dispute. He has also pointed out Article 16 of the Implementation Agreement for Establishment of Grain and Fertilizer Terminal at PQA on BOT basis in which detailed mechanism has already been

provided for dispute resolution between the parties through arbitration. The learned counsel for the plaintiff has no objection for the appointment of Arbitrators and he submits that the plaintiff will appoint Mr. Justice (R) Shahid Anwar Bajwa as their arbitrator, whereas the defendant No.1's counsel submits that the defendant No.1 will appoint Mr. Justice (R) S.A. Sarwana. They further submit that according to the conditions laid down in Article 16 of the implementation agreement, the arbitrators will appoint umpire jointly before entering into the reference in accordance with the Arbitrator Act, 1940. The application is disposed of accordingly and the suit is stayed. On 05.03.2012 as an interim measure this court passed the order that no coercive action shall be taken against the plaintiff which order shall continue by consent till delivering the award by the learned Arbitrators. The injunction application is disposed of in the above terms. The learned arbitrators will settle their fees directly with their parties.

Judge

Asif