

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Suit No.379 of 1980

Date	Order with signature of Judge
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For orders on Commissioner report dated 11.10.2017

12.03.2018

Syed Arshad Ali, advocate holding brief for
Mr. Ahmer Fazeel, advocate for the plaintiff.

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This suit was filed on **09.4.1980** for recovery of money and issues were framed on **03.5.1994** since then the plaintiff has failed to adduce evidence. On **28.10.2015** the plaintiff was directed file affidavit-in-evidence of fresh witness at his own request. Thereafter on **27.04.2017** the Commissioner was appointed for recording of evidence, which was supposed to be completed within three months. However, Commissioner's in response to query from Additional Registrar has filed a reply dated **11.10.2017** is as follow:-

"In compliance with your notice dated 17.8.2017, it is respectfully submitted that the learned advocate for the plaintiff has informed me vide his letter dated 01.08.2017 that he will file affidavit-in-evidence of Mr. Aftab Ahmed Memon but he has not filed it so far. The case is now fixed before me on 12.10.2017. I hope that he will file it on the date of hearing.

I will submit my further report when some progress is made in the case".

Today the case is fixed for orders on the said report shows that after the three months' time from **17.04.2017** only a letter was sent to the Commissioner on **01.8.2017** that learned counsel for the petitioner will file affidavit-in-evidence of one Aftab Ahmed Memon. The Commissioner has not proceeded further as till date affidavit-in-evidence on behalf of the plaintiff has not been filed. In almost 24 years since the issues were framed the plaintiff has failed to lead evidence. It may regretfully be mentioned here that learned counsel holding brief has informed that may

be counsel for the plaintiff is on general adjourned but no such information is on record. Be that as it may, the Hon'ble Chief Justice has constituted special benches on original side to deal with old matter and it is specifically mentioned even on roster setting that "General Adjournments of Learned Advocates will not be allowed in Special Benches constituted on Original Sides". Therefore, in obedience to the directive of the Hon'ble Chief Justice this old case pending since 1980 cannot be adjourned if somebody is on general adjournment.

Therefore, the suit is dismissed for want of evidence under **Order XVII Rule 3 CPC.**

JUDGE

SM