

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
HCA No.333 of 2017

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Date	Order with signature(s) of Judge(s)
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1. For orders on office objections/reply at "A"
  2. For hearing of CMA No.2713/2017
  3. For hearing of main case
  4. For hearing of CMA No.2715/2017 (Stay)
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**10.05.2018**

Mr. Muhammad Jamshed Malik, advocate for appellant  
Syed Wasi haider Jafri, advocate for respondents 1 to 6  
Syed Ghulam Shabbir Shah, Addl: A.G. Sindh

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This High Court Appeal has been filed against the order dated 08.06.2017, passed by learned single Judge of this Court in Suit No.Nil of 2017 (*Mrs. Azam Rafique Shah and others vs. Omni (Pvt.) Ltd and others*). The record reflects that on 24.05.2017 along with urgent application CMAs Nos.8157/2017 (*under Order 39, Rule 1 and 2, CPC*), 8160/2017 (*under Order 26, Rule 9, CPC*) and 8161/2017 (*under Order 40, Rule 1 CPC*) along with office objections were listed. The office objections were deferred for the time being and the notices were ordered to be issued at Serial Nos.2 to 4 for 30.05.2017. However, on 30.05.2017, the matter was adjourned for want of time. On 08.06.2017 the learned counsel for the plaintiff filed CMA No.9333/2017 for urgent motion. The matter was taken up by the learned single Judge of this Court and while mentioning the urgency, CMAs Nos.8160 and 8161 of 2017 were also taken up. First application as mentioned in the order for appointment of Commissioner to inspect Larr Sugar Mills and to prepare the inventory of the machinery in the plants as well as parts, stocks and valuable assets lying with the same in its plant and godowns was allowed and the Nazir was appointed to inspect the premises and to prepare the inventory of the machinery in the plants as well as parts, stock and valuable assets.

Learned counsel for the appellant argued that in fact on urgent motion, the date should have been fixed by the learned single Judge for

hearing of the CMAs but on the said date, in absence of the appellant/defendant No.1, this application was allowed.

Learned counsel for the respondents Nos.1 to 6 admits that though the application was allowed on urgent motion but he submits that earlier notice of this application was issued.

No doubt, when the urgent application is moved, without any other fresh application, the Court may give any fix date for hearing of all pending applications but we noted that the learned single Judge of this Court in absence of other side passed order for inspection in which no right of hearing was provided to other side. However, after arguing the matter at some length, learned counsel for respondents Nos.1 to 6 agrees that the order may be set aside with the directions to the learned single Judge for hearing all the pending applications.

Learned Additional A.G. Sindh does not want to add anything but he submits that remanding the matter appears to be appropriate.

As a result of above discussion, the impugned order dated 08.06.2017 is set aside and CMA No.8160/2017 will deem to be pending. The office is directed to fix all the pending applications before the learned single Judge of this Court on **29.05.2018** as suggested by the learned counsel. To be fixed as per roster. No further notice is required to be served and both the learned counsel may effect their appearance on the said date before the learned single Judge. The appeal is disposed of accordingly.

J U D G E

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*Gulsher/PS*