

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

Suit No.1917 of 2017

Date

Order with signature of Judge

For further orders.

08.06.2018

Mr. Ali T. Ebrahim, Advocate for the Plaintiff.

M/s. Faiz Durrani & Ghulam Muhammad, Advocates for Defendant No.1.

Mr. Intisar ul Haq Haqqi, Chief Executive Officer
of the Defendant No.1.

In continuation of earlier orders, the counsel for the defendant No.1 has filed a fresh statement duly signed by their Chief Executive Officer Mr. Intisar ul Haq Haqqi. Alongwith this statement, he has also attached a map prepared by the Survey of Pakistan. In pursuance of the last order passed by this court, the learned counsel has also attached an authorization letter issued by the company secretary to show that the board of directors of the defendant No.1 has authorized the C.E.O. to file this suit and to act upon in all ancillary and incidental matters. The extract of board resolution is also attached. The statement is submitted with the affidavit of C.E.O. of the defendant No.1. For the ease of reference, the statement is reproduced as under:

“STATEMENT

The Defendant No.1 humbly submits that the Defendant No.1 has already constructed security boundary wall on East, West and North side whereas the security boundary wall with watch tower on South side, Sea facing side is required to be constructed as around 1600 Chinese Engineers and staff will be working at the project, as such the Defendant No.1 at its own risk and cost, intends to construct the

boundary wall with watch tower outside the land falling within the high water mark line, subject to final outcome of the suit.

This Project, being of national importance, is going to generate 660 MW electric power based on local coal for the national grid and around 1600 Chinese Engineers and staff shall work for its completion. Moreover, the financial close is also due on 30th June, 2018 otherwise it will trigger serious financial impact and implications on the Defendant No.1.

The Defendant No.1 therefore submits to kindly, based on the report of Survey of Pakistan conducted under the Supervision of learned Nazir, in which the land area has been identified as 52 Acres plus area of land falling within the high water mark line on South side, sea facing side as per map of the Survey of Pakistan, has been earmarked, the stay order dated 25.08.2017 may accordingly be modified, which however are subject to legal rights of all the Plaintiff as well as the Defendant No.1 of the captioned suit.

This Statement may be taken on record and an appropriate order may be passed in the interest of justice.”

The learned counsel for the plaintiff has vetted the statement, however, he raised an objection that the reliance on the report of Survey of Pakistan as far as the measurement of 52 acres of land is disputed at the moment but he has no objection if the wall is raised and watch tower is built subject to the final outcome of the suit and the indemnity given in the statement. He further submits that at the time of raising wall, the defendant No.1 shall also intimate the concerned department of the plaintiff. The learned counsel for the defendant No.1 agrees that the main controversy between the parties may be decided at the time of final adjudication of the suit. He further agrees that as and when the work for construction of boundary

wall will start, a prior intimation will be given to the plaintiff's concerned department in writing. The statement is taken on record. The defendant No.1 may raise the boundary wall and build the watch tower also in accordance with the statement with this clear order that in case the suit is decreed in favour of the plaintiff, the defendant No.1 will remove the boundary wall as well as the watch tower at their own risk and cost. The learned counsel for the defendant No.1 on instructions further admits that no land shall be reclaimed by the defendant No.1. Both learned counsel are also in agreement that the land in dispute is in south sea-facing side and the project will continue within the boundary wall of the defendant No.1. The interim orders passed earlier are modified to the above extent. For the hearing of pending stay application, both learned counsel submit that the matter may be fixed immediately after summer vacations. By consent adjourned to 16.08.2018.

Judge

Asif

