

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

HCA No. 293 of 2017

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.
Mr. Justice Adnan Iqbal Chaudhry.

Fateh Jeans Limited & othersAppellants

Versus

The Russian Federation & othersRespondents

Date of hearing 17.08.2018

Mr. Mansoor Ali Ghanghro advocate for the appellants.

Mr. Muhammad Saleem Mangrio advocate for the respondent No. 5 & 6.

Mr. Ijaz Ahmed Shirazi advocate for the respondent No.10.

Mr. Zahid Khan, Assistant Attorney General.

None present for the remaining respondents.

Muhammad Ali Mazhar, J: This appeal has been preferred against the order dated 07.06.2017 passed by learned Single Judge in Suit No. 2008 of 2016. The main ground of attack by the appellants' counsel is that the learned counsel for the plaintiffs on the date of order was unwell and Mr. Muhammad Ali held brief for Mr. Kazim Hassan advocate for the plaintiffs on that date. Learned Single Judge pointed out this fact in the order but due to some urgency claimed by the learned counsel for the defendant No. 5 and 6 it was observed that the interest of plaintiff No. 1 and 2 is only to the extent of 33% of the sum payable to the defendant No.5 & 6 by the

defendant No.10. It was further observed that since the interim orders are operating, the defendant No.5 & 6 are unable to have their claim processed at all. Learned Judge while issuing caution to the learned counsel for the plaintiffs to be present on the next date of hearing modified the interim order to the extent of 77% of the claim of defendant No. 5 & 6 lying with the defendant No.10 be released to them subject to following the appropriate formalities with the consent of defendant No.1. It is further mentioned in the order that this modification will be without prejudice to the claim of defendant No. 5 & 6 to the extent of 100% claim. In support of this appeal, learned counsel for the appellants argued that the order was passed without providing any opportunity of hearing to the plaintiffs. He further argued that substantial modification was made in the interim order which seriously prejudiced the case of appellants in the trial court.

2. Learned counsel for the respondent No. 5 & 6 argued that despite various opportunities, the plaintiffs' counsel failed to argue their application in the trial court. However, he admits that on the date of hearing a request was made by the plaintiffs that their counsel was unwell but some modification was made in his absence. The interim orders in this appeal are already in field since 16.06.2017 hence the amount could not be released to respondent No.5 & 6.

3. After arguing at some length, learned counsel appearing for the parties agreed to a modality that the impugned order may be set aside and directions may be issued to decide the

pending applications, one moved for injunction and another application under Order VII Rule 11 C.P.C. moved by the learned counsel for the respondent No. 5 & 6.

4. In view of the above facts, the impugned order dated 07.06.2017 is set aside by consent and the appeal is disposed of with the directions to learned Single Judge to decide the injunction application moved by the plaintiffs/appellants and the application moved under Order VII Rule 11 C.P.C. by the Respondent/defendant No.5 & 6 within a period of one (01) month. Learned counsel for the parties shall not seek any unnecessary adjournment.

JUDGE

JUDGE

Aadil Arab