ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
SUIT No. B-121 / 2011

DATE	ORDER WITH SIGNATURE OF JUDGE

1) For hearing of CMA No. 929/2012.
2) For hearing of CMA No. 930/2012.
3) For hearing of CMA No. 931/2012.

Date of hearing: 30.11.2017

Date or Order: 11.01.2018.

Mr. Jam Asif Mehmood along with Saim Hashimi Advocates for Plaintiff.
Mr. Tariq Bashir Advocate for Defendants No. 1 & 2.
Mr. Murtaza Wahab Advocate for Defendants No. 3 & 4.

2 & 3) These two applications have been filed by Defendants No.3 and 4 ("*Defendants*") under Section 10 of the Financial Institutions (Recovery of Finances) Ordinance, 2001 ("*FIO 2001*") seeking Leave to Defend in this matter.

This is a Suit for Recovery of Rs. 337,106,861.65 filed under Section 9 of the FIO 2001, seeking judgment and decree and sale of pledged shares as according to the Plaintiff the Defendants have defaulted in honouring their commitments.

Learned Counsel for the Defendants has contended that both these Defendants were guarantors, whereas, they are entitled in this matter, either for grant of leave to defend unconditionally, or rejection of plaint, as admittedly, the Plaintiff has failed to comply with the mandatory provisions of Section 9(2) of the FIO 2001 read with Section 2(8) of the Banker's Books Evidence Act, 1891 as the bank statement annexed with this plaint is neither properly signed nor attested / authenticated with certification at the bottom of the statement of

accounts. Per learned Counsel such fact is not in dispute and there is enough case law to this effect that in such cases, either an unconditional leave has been granted, or in some cases the plaint has been rejected. Learned Counsel has contended that it is the case of his client's that plaint be rejected in this matter. In support he has relied upon ***Messrs Soneri Bank Limited V. Messrs Compass Trading Corporation (Pvt.) Limited and 3 others (2012 CLD 1302), Apollo Textile Mills Ltd and others V. Soneri Bank Ltd. (PLD 2012 SC 268), Habib Metropolitan Bank Limited V. Abid Nisar (2014 CLD 1367), Pakistan Kuwait Investment Company (Pvt.) Limited V. Messrs Active Apparels International and 6 others (2012 CLD 1036), Messrs Asia Motor Company and another V. Messrs NIB Bank Limited (2016 CLD 609), Pak Oman Investment Company Limited V. Chenab Limited and 9 others (2016 CLD 1903).*** Learned Counsel has further contended that insofar as the judgment reported as ***Habib Metropolitan Bank Ltd. V. Mian Abdul Jabbar Gihllin and another (2013 CLD 88),*** is concerned, wherein, a contrary view has been taken by a learned Single Judge of this Court by placing reliance on the Electronic Transaction Ordinance, 2002, is not a good law as according to the learned Counsel, FIO 2001 is a special law and therefore, reliance on a general law is not permitted.

On the other hand, learned Counsel for the Plaintiff Bank has referred to the judgment of ***Apollo Textile*** supra and has contended that the Court has to decide the leave to defend application on merits whereas, the statement of accounts placed on record may not have been certified in the manner as required, but nonetheless, it is a primary document and he has relied upon Article 73 (Explanation-2) of the Qanoon-e-Shahadat Order, 1984. He has further contended that it is a

printout of the original account statement so stored in the computer, and it cannot be termed as inadmissible in law and must be treated as valid and good evidence. Per learned Counsel the account statements are in original and not copies and therefore, it is within itself a primary document. Learned Counsel has read out the provisions of Section 9 and 10 of FIO 2001 as well as Electronic Transaction Ordinance, 2002 and submits that since it is later in time, with a Non-obstante clause, therefore, it has an overriding effect. In support he has relied upon ***Habib Metropolitan Bank Ltd. V. Mian Abdul Jabbar Gihllin and another (2013 CLD 88)***, ***NIB Bank Ltd. V. Highnoon Textile Ltd and 3 others (2014 CLD 763), The Bank of Punjab V. Messrs Khan Unique Developers Pvt. Ltd. and 9 others (2016 CLD 29), Habib Metropolitan Bank Limited V. Faizan Ali and Company Pvt. Limited (2017 CLD 1583).*** Learned Counsel in the alternative has argued that in view of the dicta laid down in the cases reported as ***Messrs U.B.L. V. Messrs Sindh Tech. Industries Ltd and others (1988 CLC Karachi 1152), Messrs Malik & Company and others V. Muslim Commercial Bank and others (2002 CLD 1621), Muhammad Mujtaba and 5 others V. The Bank of Punjab (2004 CLD 712), Messrs Saudi Pak Commercial Bank Limited V. Messrs Marvi Agrochem (Private) Ltd and 9 others (2007 CLD 1374),*** this Court can issue directions to file complete statement of accounts as the provisions of Section 9(3) ibid stands complied with. Learned Counsel has also relied upon ***Bela Automotive Limited V. Habib Bank Limited (2005 CLD 893)*** and ***Imtiaz Ahmed V. Ghulam Ali, Ch. Khushi Muhammad SDO (Canal) Gojra District and Distract Election Officer Lyallpur (PLD 1963 SC 382).***

I have heard both the learned Counsel and perused the record. Insofar as the objection regarding certification of the accounts statement as required in terms of Section 9(2) read with Section 2(8) of the Banker's Books Evidence Act, 1891 is concerned, the same is not in dispute that proper compliance is lacking in this matter. Perusal of statement of account reflects that neither it is signed by the designated officer as required in law, nor the same carries any certification at the bottom of the same to the effect that it is a true copy of an account entry and that such entry is contained in one of the ordinary books of the bank and was made in the usual and ordinary course of business and such book is still in the custody of the Bank. Learned Counsel for the Plaintiff has placed reliance on the case reported as ***Habib Metropolitan Bank Ltd. V. Mian Abdul Jabbar Gihllin and another (2013 CLD 88)***, passed by a learned Single Judge of this Court wherein, after considering the provisions of Electronic Transaction Ordinance, 2002 the learned Single Judge at Para 12 has come to the following conclusion;

> 12. Now coming to the second limb of the arguments advanced by the learned Counsel for the defendants that the statement of accounts filed by the plaintiff are not in accordance with law as the same do not bear the signature of the bank official and stamp of the bank. The Electronic Transaction Ordinance 2002 (ETO 2002) was promulgated with the view to provide recognition and facilitation of documents, records, information, communications and transactions in electronic form etc. By virtue of this Ordinance a legal cover has been provided to the electronic forms by categorizing that their legal recognition and admissibility etc. would not be called in question if the same has not been attested by any witness, in case the same is in the electronic form. It is observed that rapid changes have occurred in the recent years as old and conventional system of banking has been done away with to a great extent. Inspite of having conventional and old method banking system latest technology has taken over by way of introduction of electronic and digital methods. It is seen that the defendant has not denied obtaining of credit facility but has only called in question the statements of accounts prepared electronically by submitting that these statements neither bears signature of bank official nor bank seal. Whereas these statements of accounts clearly stipulate that these are electronically generated documents and do not require any signature. Hence in my view these statements of accounts through which complete picture of the credit facility obtained by the defendants is quite visible would not be considered to be a document having no legal authenticity. An examination of these statements of account would

> show that they contain complete transactions with detail of accounts of the defendant and the same has duly been certified by the bankers.

At the very outset, it may relevant to observe that the underlined portion as above depicts that in that case, there was certification by the bankers (though not clear as to what type of certification was there), but at least on facts the above judgment apparently seems to be inapplicable to the case in hand. In addition, learned Counsel for the Plaintiff has then relied upon various judgments from the Lahore jurisdiction and has contended that the judgment of this Court in the case of ***Habib Metropolitan (Supra)*** has been continuously followed by the Lahore High Court, and therefore, the contention so raised on behalf of the Defendants is of no consequence.

However, I may observe that despite this judgment which is in field since 2013, subsequently, various learned Single Judges of this Court have not followed the said judgment. Though it has been consistently followed by the Lahore High Court but insofar as this Court is concerned, admittedly various orders / judgments have been passed thereafter, by various learned Single Judges who have not followed this judgment. The primary reason for this appears to be that firstly judgment of a learned Single Judge is not binding on another Single Judge of this Court and is only persuasive in nature. Secondly, the learned Single Judge(s) who have not agreed with this judgment have observed that since the provision of FIO 2001 are special in nature; therefore, the compliance of certification of the account statement as provided in Section 9(2) read with Section 2(8) of the Bankers Books Evidence Act, 1891 is mandatory. For ease of reference, Section 9(2) of FIO 2001 and Section 2(8) of the Banker's Books Evidence Act, 1891 is reproduced as under:-

FIO 2001

"Section 9: PROCEDURE OF BANKING COURTS

1. ----------
2. ***The plaint shall be supported by a statement of account which in the case of a financial institution shall be*** duly certified ***under the Bankers Book, Evidence Act, 1891 (XVII of 1891),*** and all other relevant documents relating to the grant of finance. Copies of the plaint, statement of account and other relevant documents shall be filed with the Banking Court in sufficient numbers so that there is one set of copies for each defendant and one extra copy."

Banker's Books Evidence Act, 1891

"2. "Bank" and "banker' mean---
(a) ----------
(b) ----------
(c) ----------
3. ----------
4. ----------
5. ----------
6. ----------
7. ----------
8. *"certified copy" means a copy of any entry in the books of bank together with a certificate written at the foot of such copy that it is a true copy of such entry, that such entry is contained in one of the ordinary books of the bank and was made in the usual and ordinary course of business, and that such book is still in the custody of the bank, such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title."*

Perusal of the aforesaid provision of FIO 2001 clearly reflects that the accounts statement which is to be filed and annexed with the plaint in a Suit under this Ordinance has to be duly certified in the manner as provided under the Banker's Book, Evidence Act, 1891. Whereas, Section 2(8) ibid provides that certified copy means a copy of any entry in the books of bank together with a certificate written at the foot of such copy that it is a true copy of such entry and that such entry is contained in one of the ordinary books of the bank and was made in the usual and ordinary course of business, and that such book is still in the custody of the bank. It further requires that such certificate should be dated and subscribed by the principal accountant or manager of the

bank with his name and official title. As stated hereinabove this requirement is lacking in this case and there is no dispute to that effect, rather conceded by the learned Counsel for the plaintiff bank. They have only been signed by two officers. The argument that in view of the provisions of Electronic Transaction Ordinance, 2002 this condition is no more applicable does not appear to be convincing. It may be appreciated that though in the modern day era the accounts are stored and kept on computers and electronic / magnetic storage devices, but perhaps, when the same is presented before a Court of law through a printout and is not certified or even properly signed, the same could not be admitted plainly without adducing of evidence. And for such purposes, an unconditional leave is eminent without further dilation and argument. The legislature was cognizant of the fact that whenever a Suit for recovery would be filed under the FIO 2001, the accounts or the bank statement would be annexed and for such reason since the originals would not be filed at the time of filing of a Suit, it was required that the copies so annexed with the plaint should be certified in a manner as provided under the Banker's Book, Evidence Act, 1891. It is not the moot question that in view of promulgation of Electronic Transactions Ordinance, 2002, this is no more required, but the question is that as and when copies of a bank statement or account will be annexed with the plaint they should be properly certified by the officer as required under the Banker's Book, Evidence Act, 1891. And this has been mandated for the reason that when the same is presented before the Court in a recovery Suit under Section 9 of FIO 2001, it has attached to it some authenticity. Be it a computer printout or an extract or copy of an account being maintained manually by the bank, the condition of its certification is mandatory in both situations. It is not

that after promulgation of Electronic Transaction Ordinance, 2002, the question of its certification goes away. This Ordinance only provides a mechanism or a substitute to keep the accounts on Electronic / magnetic data and devices, instead of retaining them manually. It only facilitates such method of keeping the records electronically, so as to overcome any impediment in its acceptance in totality. This in no way absolves a party regarding the condition of its certification in terms of Section 2(8) of the Bankers Book Evidence Act, 1891, especially when it is presented before the Court under a Suit for Recovery in terms of Section 9 of FIO 2001.

Even otherwise, from perusal of the aforesaid observations of the learned Single Judge in the case of ***Habib Metropolitan*** (Supra), it appears that though a conclusion has been drawn that after promulgation of the Electronic Transactions Ordinance, 2002, recognition and facilitation of documents in electronic form has been provided a legal cover, but there is no conclusive finding in respect of the issue that why in view of a special enactment such as FIO 2001, regarding certification of account statement, the same could be dispensed with in terms of a corresponding provision in a general law, i.e. Electronic Transactions Ordinance, 2002. In fact this issue was never brought before the Court nor was the Court in that case properly assisted regarding applicability of a provision contained in a general law as against a special law. It need not be reiterated that General law is one that is unrestricted in terms of its applicability, whereas, a special law may be restricted in nature as to the types of persons or cases. Whether a law is general or special depends on the particular features of the statute in issue and ultimately a question of relativity between

two or more statutes on the common subject matter.[1] FIO 2001 is undoubtedly a special law as it creates a special mechanism and forum for dealing with recovery of finance by the financial institution from customers, and provides certain mandatory directions for filing of a plaint (relevant issue here) along with account statement with certification in the manner as provided under section 9(2) read with section 2(8) of the Bankers Books, Evidence Act, 1891. Now what is there in the Electronic Transactions Ordinance, 2002, which could override this provision, is which is to be considered by this Court through a harmonious interpretation and by following the dicta laid down in this regard.

Now coming to the question that whether the provisions of FIO 2001 will override or prevail over the Electronic Transaction Ordinance, 2002, it would be advantageous to refer to Section 4 of FIO 2001, which provides that *the provisions of this Ordinance, shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force*. This clearly provides an overriding effect with anything inconsistent therewith contained in any other law for the time being in force. Though no effort was made on behalf of the plaintiff that as to which of the provision is inconsistent and will prevail over which provision amongst the two laws, but on an analysis of the judgment reported as ***Habib Metropolitan*** (Supra) it appears that reference is being made to the preamble of the Electronic Transactions Ordinance, 2002, which has been relied upon in the said judgment and reads as *WHEREAS it is expedient to provide for the recognition and facilitation of documents, records, information, communications and transactions in electronic form, accreditation of certification service providers, and for matters connected therewith*

[1] Syed Mushahid Shah and others V. Federal Investment Agency and others (2017 SCMR 1218)

and ancillary thereto; and further observed that by virtue of this Ordinance a legal cover has been provided to the electronic forms by categorizing that their legal recognition and admissibility etc. would not be called in question if the same has not been attested by any witness, in case the same is in the electronic form. The inference drawn is in respect of condition of attesting witnesses to a document and it has been held that non-attestation of a document in an electronic form would not make it invalid in law. However, this is entirely irrelevant when the matter is deeply appreciated in that the FIO 2001 [S.9(2)] read with S.2(8) of Bankers Book Evidence Act, 1891, do not require or ask for any attestation for that matter but for certification of account statement. It may be appreciated that requirement of "*attestation*" and "*certification*" are two distinct things having different implications in law. Certification has been specifically dealt with under Section 12 ibid of the Ordnance 2002, and reads as under;

> 12. Certified copies. Where any law requires or permits the ***production of certified copies of any records,*** such requirement or permission shall extend to printouts or other forms of display of electronic documents ***where, in addition to fulfillment of the requirements as may be specified in such law relating to certification,*** it is verified in the manner laid down by the appropriate authority.

Perusal of the above provision clearly reflects that in fact there is nothing in the Electronic Transactions Ordinance 2002, which dispense with the certification of a document as required under the FIO 2001. It only recognizes that accounts / bank statements could be maintained in an electronic form and to that there is no cavil; however, the condition of certification remains valid. In fact there is an additional condition of verification of the document in a manner laid down by the appropriate authority [defined in Section 2(f)], which has also not been complied with by the plaintiff bank. Therefore, to take shelter under the

Electronic Transactions Ordinance 2002, for curing defect of certification of a document does not seems to be valid or justified in any manner.

Finally the learned Counsel for the plaintiff also made a submission that since Electronic Transactions Ordinance 2002 was promulgated later in time i.e. in 2002, as against FIO which was enacted in 2001, and therefore, will have an overriding effect, it would suffice to observe that a complete answer to all these issues have recently been considered by the Hon'ble Supreme Court (though in a different context) but the principle applicable is the same. The case is reported as ***Syed Mushahid Shah and others V. Federal Investment Agency and others (2017 SCMR 1218),*** wherein, the precise question before the Hon'ble Supreme Court was whether the Banking Courts constituted under the FIO 2001 have exclusive jurisdiction to try the offences mentioned therein to the exclusion of the Special Courts constituted under the Offences in respect of Banks (Special Courts) Ordinance, 1984, the Courts of ordinary Criminal Jurisdiction under the Code of Criminal Procedure, 1898 read with the Pakistan Penal Code, 1860 and from inquiry and investigation by the Federal Investigation Agency under the FIA Act, 1974. The Hon'ble Supreme Court while interpreting the question that when there is a conflict between a special law and a general law has been pleased to observe at Para 9, 10 & 11 which is as follows:-

> 9. Section 7(4) of the Ordinance, 2001 confers exclusive jurisdiction on the Banking Courts with respect to certain matters albeit subsection (5) creates an exception to the exclusive jurisdiction of the Banking Courts. This confers a right on the financial institution to seek any remedy before any court or otherwise which may be available to it under the law by which the financial institution may have been established [Section 7(5)(a)]. According to section 4 of the Ordinance,

2001 reproduced above, its provisions "shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force." This is essentially a non obstante clause which is defined as "A phrase used in documents to preclude any interpretation contrary to the stated object or purpose." 'Notwithstanding' means despite, in spite of or regardless of something. In this respect Justice G. P. Singh has aptly explained:-

> "A clause beginning with 'notwithstanding anything contained in this Act or in some particular provision in the Act or in some particular Act or in any law for the time being in force', is sometimes appended to a section in the beginning, with a view to give the enacting part of the section in case of conflict an overriding effect over the provision or Act mentioned in the non obstante clause. It is equivalent to saying that in spite of the provision or Act mentioned in the non obstante clause, the enactment following it will have its full operation or that the provisions embraced in the non obstante clause will not be an impediment for the operation of the enactment."

In the judgment reported as Packages Limited through its General Manager and others v. Muhammad Maqbool and others (PLD 1991 SC 258) this Court observed:-

> "In our opinion a 'non obstante' clause operates as an ouster of the earlier provisions only where there is a conflict and inconsistency between the earlier provisions and those contained in the later provision and, therefore, must be read in the context in which it is operating. Accordingly, a non obstante clause will operate as ouster only if an inconsistency between the two is found to exist."

In the judgment reported as Muhammad Mohsin Ghuman and others v. Government of Punjab through Home Secretary, Lahore and others (2013 SCMR 85), this Court cited with approval a passage from Interpretation of Statutes by N. S. Bindra which reads as under:-

> "It has to be read in the context of what the legislature conveys in the enacting part of the provision. It should first be ascertained what the enacting part of the section provides on a fair construction of words used according to their natural and ordinary meaning and the non obstante clause is to be understood as operating to set aside as no longer valid anything contained in relevant existing law which is inconsistent with the new enactment. The enacting part of a statute must, where it is clear, be taken to control the non obstante clause where both cannot be read harmoniously, for even apart from such clause a later law abrogates earlier laws clearly inconsistent with it.
>
> The proper way to construe a non obstante clause is first to ascertain the meaning of the enacting part on a fair construction of its words. The meaning of the enacting part which is so ascertained is then to be taken as overriding anything inconsistent to that meaning in the provisions mentioned in the non obstante clause. A non obstante clause is usually used in a provision to indicate that that provision should prevail despite anything to the contrary in the provision mentioned in such non obstante clause. In case there is any inconsistency between the non

> obstante clause and another provision one of the objects of such a clause is to indicate that it is the non obstante clause which would prevail over the other clauses. It does not, however, necessarily mean that there must be repugnancy between the two provisions in all such cases. The principle underlying non obstante clause may be invoked only in the case of 'irreconcilable conflict'."

From the above it is clear that the non obstante clause of section 4 of the Ordinance, 2001 has been used by the legislature to give the provisions of the said Ordinance an overriding effect over any other law for the time being in force which may be contrary thereto. The use of the word 'notwithstanding' in section 4 ibid indicates the legislative intent to avoid the operation of conflicting provisions, by providing that in the event of such conflict, the provisions of the Ordinance, 2001 would take precedence over any such inconsistent law.

"10. So, does the Ordinance, 2001 override the provisions of the Code and the P.P.C.? This question pertains to the second category of cases (identified in the second paragraph of this opinion) in which cheques issued by the customers to the financial institutions were dishonoured and FIRs were registered against the former under the provisions of section 489-F of the P.P.C. It is a settled canon of interpretation that where there is a conflict between a special law and a general law, the former will prevail over the latter. In Muhammad Mohsin Ghuman's case (supra) this Court observed that "special statute overtakes the operation of general statute". At this juncture, it is useful to point out certain relevant provisions of the Code and the P.P.C. Section 1(2) of the Code provides that " in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force." According to section 5(1) of the Code, all offences under the P.P.C. "shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained", whereas subsection (2) thereof states that "All offences, under any other law shall be investigated, inquired into, tried and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences." Section 29(1) of the Code provides "Subject to the other provisions of this Code, any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court." While section 5 of the P.P.C. stipulates that "Nothing in this Act [P.P.C.] is intended to repeal, vary, suspend or affect any of the provisions of any special or local law." These provisions make it clear that not only do the Code and the P.P.C. recognize special laws, but they indicate that such general laws would cede to the special laws. The phrase 'for the time being in force' [in Section 1(2) of the Code] has been interpreted by a five member bench of this Court in the judgment reported as (1) Mian Iftikhar-ud-Din, and (2) Arif Iftikhar v. (1) Muhammad Sarfraz Administrator, Progressive Papers Ltd. (2) The Government of Pakistan (PLD 1961 SC 585) to mean that it will apply not only to those existing statutes enacted in the past, but also to those which

may be enacted in the future. Thus the Code does not affect any special laws including the Ordinance, 2001."

11. This overriding effect of section 20(4) of the Ordinance on section 489-F of the P.P.C. is brought out by the following comparison:-

……..The above comparison of sections 20(4) of the Ordinance, 2001 and 489-F of the P.P.C. suggests that there is a clear conflict between them - they are worded in identical terms [save for the word 'finance' in section 20(4) as opposed to 'loan'] but the former provides for a lesser punishment of imprisonment which may extend to one year, or with fine or with both, whereas the latter stipulates a punishment of imprisonment which may extend to three years or with fine, or with both. Therefore section 489-F cannot simultaneously apply to a situation where an offence under section 20(4) of the Ordinance, 2001 is made out on account of the disparity in punishment. The law providing greater punishment must relent in favour of the law ordaining the lesser punishment. The ineluctable conclusion is that the Ordinance, 2001 overrides the Code and the P.P.C. where an offence has been committed which falls within the purview of the former; and exclusive jurisdiction would vest in the Banking Courts constituted thereunder (the Ordinance, 2001) to the exclusion of the ordinary criminal courts.

We are not convinced by the argument of the learned counsel for the respondents that the Ordinance, 2001 could not override section 489-F of the P.P.C. as the former law was promulgated on 30.08.2001 whereas the latter was inserted into the P.P.C. by way of amendment on 25.02.2002, because as mentioned above, the phrase "for the time being in force" applies to future enactments as well, thus mere insertion of a provision in a general law after the special law comes into force would not make the general law override the special law. In fact, this insertion after the promulgation of the Ordinance, 2001 negates the respondents' argument for the reason that it shows that the object was to also make the dishonouring of cheques to be an offence in ordinary cases apart from those cases involving a customer and a bank which are dealt with by the Ordinance, 2001.

The upshot of the above discussion is that apparently the statement of account filed along with the plaint does not fulfill the mandatory requirement as contemplated under Section 9(2) of FIO 2001, as neither the same has been certified in the manner as mandated, nor the Court has been assisted to the effect that the officers who have signed the same were competent to do so in law, including

but not limited to FIO 2001 and Bankers Books, Evidence Act, 1891. Prima facie the plaintiff bank has failed to meet such requirement and to put best possible case at the leave granting stage. This resultantly entitles the defendants for grant of an unconditional leave to defend this Suit as substantial question of fact and law has been made out. In coming to this conclusion I am fortified with the findings arrived at in the cases reported as ***Soneri Bank Limited v Compass Tading Corporation (Private) Limited*** (**2012 CLD 1302**), ***Muhammad Yasin Pakistan Kuwait Investment Company (Pvt) Limited v Active Apparels International & 6 others*** (**2012 CLD 1036**) and ***Habib Metropolitan Bank Limited v Abid Nisar*** (**2014 CLD 1367**)

Accordingly the three listed leave to defend application(s) stands allowed. The defendants as above are entitled to defend the suit and their application for leave to defend is to be treated as written statement, whereas, parties are directed to file proposed issues to be framed /settled. Let this matter now be fixed for settlement of issues on the next date of hearing.

Dated: 11.01.2018

J U D G E

ARSHAD/