

ORDER SHEET

IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D- 328 of 2018

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DATE	ORDER WITH SIGNATURE(S) OF JUDGE(S)
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Present  
Mr. Justice Muhammad Ali Mazhar  
Mr. Justice Agha Faisal

Abdullah Hussain Haroon & Another ..... V/s..... Advocate General Sindh & Others.

For orders as to maintainability of petition.

**07.11.2018.**

Mr. Obaidur Rehman, Advocate for petitioner.  
Mr. Yawer Farooqui, Advocate for Respondent No.2.  
Mr. Miran Muhammad Shah, Additional Advocate General.

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**Muhammad Ali Mazhar, J:** Petitioner has approached this Court for challenging the permission dated 11.3.2014 accorded to by the Advocate General Sindh under section 92 CPC. In that permission the Advocate General has given following observations:

“The draft plaint has been perused there appears serious dispute between Trustees and beneficiaries as well and there are serious allegations of breach of express trust which is created for public purpose of charitable nature, therefore, permission is hereby accorded for filing a suit in respect of Sir Haji Abdoola Haroon haritable Trust and to allow the Court to adjudicate the matters in relation to the prayers sought in the plaint”.

We have noted that this permission was granted on 11.03.2014 and the suit has been presented on 30.12.2017. Mr. Yawer Farooqui, counsel for Respondent No.2 submits that after granting permission the Suit No. 669 of 2014 has already been filed for Declaration, Accounts, Removal of Trustees, Appointment of Trustees and Injunction.

In our considered view though there is no right of appeal provided to challenge such type of permission under CPC but at the same time it is to be seen whether Advocate General while granting permission has considered the entire

facts of the case and reached to the conclusion whether there is triable dispute between the parties or not.

The petitioner belatedly approached this Court, which is almost three years after granting the permission and in the intervening period suit has already been filed, however, the petitioner may move appropriate application in the trial Court if they are aggrieved against the filing of suit. We have also noted that learned Advocate General in his permission stated that there is serious dispute between Trustees and beneficiaries as well and there are serious allegations of breach of express trust which is created for public purpose of charitable nature, therefore, permission was granted whereas the learned counsel for petitioner denied these allegations. Since the suit is already pending on these allegations, the proper issues may be framed by the learned Court including an issue with regard to the permission which was granted by the Advocate General under section 92 CPC.

By consent petition is disposed of in the above terms.

Judge

Judge

AbRzk

