

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
High Court Appeal No. 271 of 2019

DATE: ORDER WITH SIGNATURE(S) OF JUDGE(S).

Present

Mr. Justice Muhammad Ali Mazhar.
Mr. Justice Yousuf Ali Sayeed.

Eye Bank and another.....Appellants.

Versus

Clearlab SG Pte Ltd. Singapore and others.....Respondents.

13.08.2020

Mr. Muhammad Ali Zahed, advocate for appellants.
Mr. Munir Ahmed Khan, advocate for respondents.
Mr. Bilal A. Khilji, A.A.G.

Muhammad Ali Mazhar, J: This High Court Appeal has been preferred against the order dated 05.08.2019 whereby the application filed by the appellant No.2 under order VII Rule 11 CPC in Suit No. 1385 of 2017 for rejection of the plaint, was dismissed by the learned single Judge. The main reasons for filing of the application under order VII Rule 11 CPC in pending suit were that the plaintiff made misrepresentation and misleading statement and also concealed some facts in the suit. The application was heard by the learned single judge which was dismissed merely for the reasons that none of the grounds raised by the defendant No.2 in its application attracts any of the eventualities laid down in Order VII Rule 11 CPC. It is well settled proposition of law that while deciding application under order VII Rule 11 CPC the court has to see averments of the plaint and if it is found that plaint is liable to be rejected on any of the grounds enumerated under order 7 Rule 11 CPC, the court may reject the

plaint. We are of the firm view that allegation of any concealment/ misleading statement or the allege fraud, does not come within the ambit of order 7 Rule 11 CPC. The counsel for the appellant also raised a question that for a considerable time injunction application is pending with some interim orders and the appellants have also filed an application under order 39 Rule 4 CPC for eviction of said interim order. This aspect has also been confirmed by the learned counsel for the respondent No.1 that both applications are pending before the learned single bench. The counsel for the appellants after arguing at some length submits that he will be satisfied if some directions may be issued to the learned single judge to dispose of both pending applications on which counsel for the respondents has also no objection. By consent this appeal is disposed of with the directions to the learned single judge to decide the injunction application as well as application moved under order 39 Rule 4 CPC filed in suit No.1385 of 2017 preferably within a period of 30 days.

JUDGE

JUDGE

TariqAli/PA