

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

HCA Nos. 208, 211 & 212 of 2020

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.

Mr. Justice Arshad Hussain Khan.

HCA No. 208 of 2020

Naveed Naiyar Hussain & anotherAppellants

Versus

Sohail Elahi & anotherRespondents

HCA No. 211 of 2020

Naveed Naiyar Hussain & anotherAppellants

Versus

Mardan & others.....Respondents

&

HCA No. 212 of 2020

Naveed Naiyar Hussain & anotherAppellants

Versus

Ahmed Ali & others....Respondents

Date of hearing 17.11.2020

Mr. Sarfaraz Ali Metlo advocate for the appellants.

M/s. Haider Waheed and Ahmed Masood advocates for the Respondent No.1 in HCA No. 208 of 2020

M/s. Reehan Kiyani and Khawaja Altaf advocates for the respondent No.1 in HCA Nos.211 & 212 of 2020.

Muhammad Ali Mazhar, J: In all three connected appeals, the appellants have challenged the order dated 09.11.2020 passed by the learned Single Judge.

2. The brief facts of the case are that the appellants in the aforesaid appeals filed suits for declaration, cancellation and injunction at Original Side of this Court i.e. Suit No. 660 of 2020, 658 of 2020 and 666 of 2020. According to the appellants, there were some disputes with regard to the contractual obligations and payment and some cheques were issued by the appellants in favour of private defendants. The plaintiffs in the suits made a prayer for cancellation of cheques issued by them with some other reliefs. The suits were fixed for orders on the injunction application and the learned Single Judge in Suit No. 660 of 2020 and 658 of 2020 passed the interim order on 15.11.2020, whereas, in Suit No. 666 of 2020 on 16.06.2020. The learned Single Judge while issuing notices to the defendants restrained the defendant No.1 from presenting the post dated cheques and defendant No.2/Habib Bank Limited was restrained not to take any action on those cheques presented. The parties were also directed to maintain status quo till next date of hearing. This order was in field however when the above suits were fixed before the learned Single Judge on 09.11.2020, the learned counsel for the appellants was on general adjournment and a request was made on his behalf for adjournment. Learned counsel for the appellants argued that though the suits were adjourned but the learned Single Judge made some clarification in the interim orders passed earlier that the interim orders may not be construed to prevent the defendant No.1 from lodging FIR under Section 489-F PPC for the bounced cheques and the learned Single Judge also referred to Section 56(e) of the Specific Relief Act which provides that no injunction can be granted to stay proceedings in any criminal matter. Learned counsel for the appellants argued that various cheques were already presented in the bank before obtaining interim order on 15.06.2020 and 16.06.2020. He further argued that due to this clarification, the effect of interim order passed by this court at Original Side was nullified and negated.

3. Mr. Haider Waheed advocate is appearing for respondent No.1 in HCA No. 208 of 2020, whereas, Mr. Reehan Kiyani advocate is appearing for private respondents in HCA Nos. 211 & 212 of 2020 collectively argued that learned Single Judge has only made some clarification and it does not amount to vacate the stay order granted earlier. So far as the clarification is concerned, it is precisely with regard to the provisions envisaged under Section 56(e) of the Specific Relief Act.

4. It is an admitted fact that learned Single Judge in the aforesaid suits passed the interim orders and all the injunction applications are pending which are to be decided on merits after hearing all learned counsel, however, we do not agree that by making some clarification, the effect of earlier order has been nullified.

5. The order is interim in nature; hence we do not find any justification for interference at this stage where the status quo orders are still in field but some clarification has been made by the learned Single Judge. The injunction applications have to be decided on their own merits where all grounds raised by the appellants in the injunction applications have to be considered. The appeals are disposed of along with pending applications with the directions to the learned Single Judge to decide the injunction applications preferably within a period of one (01) month after hearing the parties.

The order passed by the learned Single Judge to maintain status-quo by the parties will continue till decision of injunction applications in all aforesaid suits.

JUDGE

JUDGE