

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

H.C.A. No.12 of 2021
H.C.A. No.13 of 2021

Date	Order with signature of Judge
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Present
Mr. Justice Muhammad Ali Mazhar
Mr. Justice Amjad Ali Sahito

H.C.A. No.12 of 2021

Mohsin Abbas.....Appellant

Versus

Muhammad Irfan & others.....Respondents

H.C.A. No.13 of 2021

Syeda Sadaf Zahra.....Appellant

Versus

Muhammad Irfan & others.....Respondents

10.02.2021

Mr. Muhammed Umer Lakhani, Advocate for Appellants.

Muhammad Ali Mazhar, J: It is *inter alia* contended by the learned counsel for the appellants in both appeals that the appellants separately filed their applications under Order 1 Rule 10 CPC for impleading them in Suit No.86/2007 as defendants which is pending in this court. The present appeals have been filed to impugn the order dated 17.12.2020 passed by the learned single Judge in the above suit whereby the plaintiff No.2 was allowed to substitute his attorney as the counsel for the plaintiff No.2 contended before the learned single Judge that earlier Mohsin Abbas was appearing as the attorney of plaintiff No.2 on the strength of power of attorney dated 03.03.2005 which was subsequently cancelled by the plaintiff No.2 and then he appointed Ms. Sadaf Zahra as his attorney through general power of attorney which indenture was attested by the Consular Attache, High Commission of Pakistan at London, U.K. The learned single Judge held in the impugned order that it is the prerogative of the plaintiff No.2

to cancel the power of attorney and to nominate any other person as his attorney; hence there was no legal impediment in allowing such application which was allowed. Notice under Order 43 Rule 3 CPC was served on the respondents but nobody is present to represent them. The learned counsel for the appellants argued that both the intervenors' applications are pending and the said intervenors have already filed separate suits i.e. Suit No.1961 of 2019 and Suit No.390 of 2020. The observations given by the learned single Judge in the impugned order with regard to cancellation of power of attorney may prejudice the outcome of the present suit in which the cancellation of power of attorney is under question. What we noted that the impugned order was passed with regard to substitution of attorney and the plaintiffs being dominus litis have changed the attorney, so for all intents and purposes the impugned order germane to continuation of the suit though attorney was substituted by the plaintiff No.2. Obviously if some other suits in this court are pending adjudication for the cancellation of said power of attorney, that will be decided by the court on its own merits and in accordance with law. We do not find any substance in the appeals which are accordingly dismissed *in limine* alongwith listed applications.

Office is directed to place copy of this order in H.C.A. No.13 of 2021.

Judge

Judge

Asif