

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
C. P. No. D-447 of 2018

Date	Order with signature of Judge
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PRIORITY

1. For hearing of Misc. No.1823/2018.
2. For hearing of main case.

**Present**

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

Jamia Masjid Yasinabad Trust & others .....Petitioner

Versus

Province of Sindh & others.....Respondents

**29.01.2020.**

Mr. Khalilullah Jakhro, Advocate for the Petitioners.  
Mr. Muhammad Jawwad Dero, Addl. A. G.

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**Muhammad Ali Mazhar, J:** The learned counsel for the Petitioners argued that the Petitioner No.1 is a registered Trust whereas the Petitioners No.2 to 14 are the elected Trustees of the Petitioner No.1. They are aggrieved by a permission dated 04.10.2017 issued by the learned Advocate General, Sindh under Section 91 and 92 CPC for filing the Suit for Declaration, Possession and Permanent Injunction against the construction of shops as well as installation of signboard.

Learned counsel for the Petitioners argued that on the basis of this permission, the Suit has been filed by the Respondent No.3 and other private Respondents. The Petitioners have challenged the grant of permission and have also prayed for suspension of the Court proceedings in Civil Suit No.1139/2017. He further argued that before granting permission, the learned Advocate General, Sindh should have provided an opportunity of hearing to the proposed Defendants in the Suit, which has not been done.

We have gone through Section 91 and 92 CPC and do not find any provision that before granting any such permission learned Advocate General, Sindh was required to provide opportunity of hearing in the matter. Learned counsel for the Petitioners has also raised a plea that the Plaintiffs in Suit No.1139/2017 have no cause of action to file said Suit when the matter was already settled between the parties earlier.

Be that as it may, the Suit is pending and if the Petitioners deem it appropriate that the Suit has been filed without any cause of action or barred by any law, the correct approach should be to file a proper application under Order 7 Rule 11 CPC before the trial Court and not to file this Petition against the permission granted by the learned Advocate General, Sindh and seeking suspension of the proceedings in the trial Court. Even otherwise, the trial Court is not made a party in the Petition.

Learned Additional Advocate General, Sindh is also of the view that there is no provision under the law to provide any opportunity of hearing to the other side before grant of permission and an appropriate application may be moved in the Civil Court.

After arguing the matter at some length, learned counsel for the Petitioners agrees to move an application in the trial court under Order 7 Rule 11 CPC for rejection of Plaint. If any such application is moved, we expect that the trial court shall decide the application within two months in accordance with law.

The Petition is disposed of in the above terms.

JUDGE

JUDGE