

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
CP. No. D- 6464 of 2019

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Date Order with Signature(s) of Judge(s)

Priority

1. For order on Nazir's report dated 30.03.2021
2. For hearing of CMA No.10632/2021
3. For hearing of CMA No.28708/2019
4. For hearing of CMA No.28709/2019
5. For hearing of main case

**11.01.2021**

M/s. Abdul Qadir Khan and S. Noman Zahid, advocates for the petitioner.

Mr. Khan Muhammad, advocate for respondent No.3

Mr. Muhammad Nishat Warsi, DAG

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In compliance with the order dated 11.10.2021 passed by this Court, Nazir has submitted his report to the effect that on 13.10.2021, he received the cheques bearing number 25862790 dated 24.03.2021 amounting to Rs.16,62,495.00, inadvertently as the same had already been expired. When confronted with the aforesaid position of the case to the learned counsel for the petitioner, he candidly admitted the position of the case. However, he insisted that the petitioner has a good prima facie case on merits. Be that as it may, the factum of depositing the expired cheque with the Nazir of this Court could be considered for appropriate order on the next date of hearing. Today, learned counsel for the petitioner has filed the statement dated 11.01.2022 with the assertion that they are ready and willing to deposit the subject amount i.e. Rs.1,662,495/- with the Nazir of this Court, however that arrangement is without prejudice of the rights and interests of the petitioner. An excerpt of the statement is reproduced as under:

*“Without prejudice to the rights and interests and in compliance of the order dated 11.01.2022 of this Hon’ble Court, the petitioner hereby submits Cheque No.24359262 dated 11.01.2022 in favour of the Nazir of this Hon’ble Court in the amount of Rs. 1,662,495/- drawn on AlBaraka Bank Limited Trade Centre Branch Karachi in the matter accordingly.”*

Be that as it may, we are only concerned with the compliance of the order dated 11.10.2021 passed by this Court, however, the intention of the petitioner foundation is apparent on the face of record vide Nazir’s report dated 02.11.2021, which shows the following position of the case:

*“With profound respect, I have the honor to submit that in compliance of Honourable Court’s Order dated 11.02.2021 the Advocate for Petitioner has deposited the cheques bearing number 25862790 dated 24.03.2021 of an amount of Rs.16,62,495/-, received on 13.10.2021, which was inadvertently received by Nazir office, as the same was expired, however, the same was sent to National Bank of Pakistan,*

*Court Road Branch for encashment, the same was returned with the remark "Stale Instrument".*

*2. After that the Counsel for Petitioner was contacted on the cell phone, who affirmed to deposit the fresh dated cheque, but till date he did not deposit the fresh dated cheques.*

*3. Report is submitted for kind perusal and further Orders."*

Without prejudice the rights and interests of the parties, let the subject cheque be deposited with the Nazir of this Court for further orders, however, that is subject to all just exceptions as provided under the law. This Court will also consider whether the compliance of the order dated 11.10.2021 has been made in its letter and spirit within the time frame or otherwise; and, what order could be passed on the report of Nazir. The aforesaid points shall be considered on the next date of hearing.

To come up **after two (02) weeks.**

JUDGE

JUDGE