

*Order Sheet*

## IN THE HIGH COURT OF SINDH AT KARACHI

**Suit No.192 of 2020**

Date	Order with signature of Judge
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1. For orders on CMA No.5602/2021 (Urgent, if granted) :
2. For orders on Petition U/O X R 1B(VI) CPC  
submitted by Mediator (Mediator's Report) :

26.03.2021 : Mr. Abdullah Munshi, advocate for the plaintiff.  
Mr. Ebrahim Saifuddin, advocate for the defendants.  
Mr. Jawad A. Sarwana, Mediator.

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1. Urgency granted.

2. This Suit was instituted by the plaintiff on 03.02.2020 against the defendants for declaration, permanent injunction, infringement of copy right, delivering up, rendition of accounts and damages. Along with the Suit, the plaintiff filed an application bearing CMA No.1588/2020 under Section 89-A CPC praying that the dispute between the parties be referred to mediation in terms of Clause 10.2 of the agreement executed by the parties.

Under Section 89-A(1) CPC, as amended by the Code of Civil Procedure (Sindh Amendment) Act, 2018 (**'the Amendment Act of 2018'**), the Court may use Alternate Dispute Resolution (ADR) methods to resolve cases of civil or commercial matters. The first proviso to Section 89-A(1) ibid provides that for the purposes of the said Section, ADR refers to mediation, conciliation and negotiation. Under Sub-Section (3) of Section 89-A(1) ibid, a case may be forwarded to ADR by referral of the case to a mediator / conciliator as identified under Order X Rule 1-C CPC. Rule 1-B(i) of Order X CPC, as amended by the Amendment Act of 2018, provides that when a Court refers a plaint or case to ADR under Section 89-A ibid, a mediator / conciliator, as identified in Order X Rule 1-C CPC, shall be nominated. Rule 1-B(vi) of Order X CPC, as amended by the Amendment Act of 2018, provides that if a settlement is reached between the parties, the mediator / conciliator shall prepare a deed of settlement containing the terms of such settlement, signed by the parties and submit it to the Court on the day fixed by the Court together with a certificate that the settlement between the parties was voluntary. Rule 1-B(vii) of Order X CPC, as amended by the Amendment Act of 2018, 2018, provides that upon receipt of the deed of settlement and after hearing the parties, the Court may pass judgment and decree in terms of the settlement.

The above mentioned CMA No.1588/2020 filed by the plaintiff under Section 89-A CPC was disposed of vide order dated 19.11.2020, whereby Mr. Asim Mansoor Khan advocate was appointed Mediator by this Court with the consent of the parties to make an attempt to resolve the dispute between the plaintiff and defendant No.1. As the mediation proceedings could not proceed before the above named learned Mediator due to his professional preoccupation, Mr. Jawad A. Sarwana advocate was appointed Mediator in his place by this Court vide order dated 19.01.2021 on the same terms and conditions with the consent of the parties.

The listed petition under Order X Rule 1B(vi) CPC has been submitted by Mr. Jawad A. Sarwana, the learned Mediator. He has stated in this petition that the parties have executed a Settlement Agreement dated 11.03.2021, original whereof is attached to this petition. At the foot of the said Settlement Agreement, there is a certificate by the learned Mediator certifying that the parties have entered into the said Settlement Agreement voluntarily. He as well as learned counsel for the parties request that as all the disputes have been resolved by the parties through the said Settlement Agreement, the instant Suit may be decreed in terms thereof. As all the requirements of Section 89-A(1) CPC and Rule 1-B of Order X CPC have been met, there appears to be no impediment in granting their request by decreeing the Suit.

Accordingly, by consent the instant Suit is decreed in terms of the Settlement Agreement dated 11.03.2021 arrived at by the parties and submitted by the learned Mediator. There will be no order as to costs.

J U D G E

\*Suit 192-20/26.03.2021/Short Orders Single/Court Work/ARK\*

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