

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.1346 of 2019

Date	Order with signature of Judge
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1. For orders on CMA No.3302/2021 [U/R 110 SCCR (OS)] :
2. For orders on CMA No.3303/2021 (U/O VII R 10 CPC) :
3. For orders on CMA No.11102/2019 (U/O XXXIX Rs 1 & 2 CPC) :

25.03.2021 : Mr. Muhammad Shahid Habib, advocate for the plaintiff.

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1. Urgency granted.

2. This application has been filed by the plaintiff seeking an ex-parte order against the defendants on the ground that they have failed to file written statement in spite of several opportunities granted by the Court. Record shows that this matter was fixed before the Additional Registrar (O.S.) on 07.11.2019 for consideration of service on the defendants, when defendant No.1 was present in person. In view of his presence and the bailiff's report dated 08.10.2019, defendants 1, 5 and 6 were directed to file written statement within four (04) weeks. As the said defendants did not file their written statements, further time of two weeks was granted to them on 06.12.2019 and 03.03.2020, and summons were ordered to be repeated to other defendants. On 24.09.2020, defendants 3 and 4 also appeared before the Additional Registrar (O.S.) along with their original CNICs and sought time to file written statement, which was granted to them. On that date, it was observed by the Additional Registrar (O.S.) that defendant No.2 had also been served. All the defendants were directed on 24.09.2020 to file written statement before the next date. As none of them complied with the above direction, last chance was given to them to file written statement and the matter was adjourned to 16.02.2021 by the Additional Registrar (O.S.). However, proceedings before the Additional Registrar (O.S.) on the said date are not available in the Court file.

Additional Registrar (O.S.) is directed to submit a written explanation before the next date of hearing as to why the proceedings of 16.02.2021 are not available in the Court file.

As noted above, defendants 1, 3 and 4 had appeared in person before the Additional Registrar (O.S.) along with their original CNICs, and defendants 2, 5 and 6 had been duly served as per the bailiff's report. All the defendants were obliged to file written statement within the statutory period of thirty (30) days specifically provided for in Rule 1 of Order VIII CPC. Under the proviso of the said Rule 1, the statutory period of thirty (30) days stipulated therein is not

to be extended ordinarily. However, the said period was extended on several occasions by the Additional Registrar (O.S.) as an indulgence. Despite such indulgence, the defendants have not filed written statement up till now. In the above circumstances, the application is allowed with direction that this Suit shall now proceed ex-parte against the defendants.

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