

the same rates as pandemic restrictions by the government deprived the plaintiff from his legal business as per contract, thus plaintiff inter-alia has prayed for :-

“a). Declaring that the Plaintiff is entitled for recovery and adjustment of the amount of contract from the Defendants equal to the amount of all the safe/closed days and for the period complete ban was imposed by the of Sindh as per various Order/Notifications;

b). Declaring and directing that under the facts and circumstances of the case fresh Auction for awarding contract for Collection Rights of Tax/Fee from Milching Animals and Issuance of Health Clearance Certificate for the remaining period of the year 2021-2022 is to be held by the Defendants;

c). Directing the Defendants to refund to the Plaintiff the excess amount paid by him towards the subject contract and the installment paid by the plaintiff to the defendants;”

2. In contra, learned counsel for defendants has filed C.A. containing therein that bid of the plaintiff being the highest was accepted with all terms and conditions and plaintiff was allowed to work from 01.07.2021; that as per clause 5 of the contract agreement, plaintiff is bound to pay monthly instatement on or before 5th day of every calendar month. Relevant clause 12 of the contract agreement provides no rebate/refund/remission shall be given in case of any natural calamity, national emergency, disaster, pandemic/endemic condition.

3. Heard learned counsel for respective parties on listed application.

4. Learned counsel for plaintiff while arguing submits his proposal that the suit can be disposed of with direction to the defendants that they shall **re-auction** the **contract** within **fifteen days**. With regard to outstanding as claimed by defendants he

contends that though he is not liable to pay as per demand of the defendants and that can be referred for arbitration or he has no objection if a committee is formed by the defendants that shall hear the plaintiff and decide the controversy due to extraordinary unexpected circumstances with liberty to challenge the decision of that committee if aggrieved.

5. At this juncture learned counsel for defendants and defendants' Law Officer agreed that they will re-auction the contract within fifteen days, however the possession may be handed over to them immediately. Defendants also concede that they will form a committee that will decide the controversy with regard to outstanding amount within the shortest period. Whereas counsel for plaintiff contends that he has right to continue with his contract till re-auction process that may be carried out within fifteen days as he will participate in the same proceedings, however undertakes to hand over the physical possession to the successful bidder without any further delay. Besides, intervener who claims that he was the second highest bidder, has right to be allowed to take over and continue to receive the fees and he is ready to pay all outstanding.

6. Since parties are not at issue further therefore this suit is disposed of in following terms:-

- 1) That defendants No.2 to 4 shall re-auction the subject matter issue within fifteen days as per their Rules.
- 2) That plaintiff will hand over the possession to new successful bidder, whosoever may be, without any delay in re-auction process.
- 3) Defendants No.2 and 3 shall refer the dispute with regard to outstanding amount to the arbitrator as

referred in the Contract who shall decide the fate of installments not paid by the plaintiff due to restriction applied by Government while taking the plea of pandemic (covid-19). Plaintiff would be at liberty to challenge findings of the arbitrator if aggrieved. However on that plea he would not be debarred to participate in re-auction process.

- 4) Interveners would also be at liberty to participate the re-auction proceedings.

In terms of above, this suit is disposed of alongwith listed applications.

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