

ORDER SHEET
HIGH COURT OF SINDH AT KARACHI
HCA No.76 of 2020

Date	Order with signature of Judge
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1. For orders on CMA No.2881/2020 (U/A)
 2. For orders on C.M.A No.2582/2020 (151 CPC).
 3. For orders on office objection
 4. For orders on CMA No.706/2020 (Ex/A)
 5. For hearing of main case
 6. For orders on CMA No.707/2020 (Stay)
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24.11.2020.

Mr. Maaz Waheed, advocate for the appellant.
Mr. Abdul Qayyum Abbasi, advocate for the respondent.

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1. Urgency granted.

2to6. This High Court Appeal (**HCA**) has been filed impugning the judgment dated 28.01.2020 passed by the learned Single Judge in Suit No.1044/2019.

Mr. Maaz Waheed, advocate has appeared on behalf of the appellant and his only submission was that due to financial constraints, the appellant is not in a position to pay the fee of the learned Arbitrator. He in this behalf also produced a Bank statement of the appellant. At the very outset, counsel was asked as to how this was a ground for appeal and how the appeal was maintainable on that score, especially since the prayers made by the appellant appear to be aimed at restraining the arbitration proceedings in pursuance of the impugned judgment/order, whereas today a new plea has been taken that the grievance is not with regard to the arbitration proceedings, rather is with regard to the quantum of the learned Arbitrator's fee, which the appellant is unable to pay.

Mr. Abdul Qayyum Abbasi, advocate for the respondent has stated that the stance taken today by the counsel for the appellant is firstly alien to the grounds and prayer of the instant HCA and secondly if the appellant is simply aggrieved with the fee demanded by the Arbitrator, he should approach the learned Single Judge by filing an appropriate application for either changing the arbitrator or with regard to financial condition of the appellant, which according to him could not be made at this juncture in the present HCA. He submitted that an altogether new stance has now

been taken which is not a valid ground of appeal, hence this HCA deserves to be dismissed by imposing heavy cost upon the appellant.

We have heard both the learned counsel and have perused the record.

It is undeniable and admitted position that counsel for the appellant has not uttered a single word during the course of his submissions with regard to the prayer made in the instant HCA, nor has attacked the impugned order of the learned Single Judge, but has only expressed the inability of the appellant to make payment of his share of the fee of the learned Arbitrator. If the appellant wants to change the arbitrator due to his inability to pay the fee of the learned Arbitrator, in our view, the remedy is to approach the learned Single Judge by filing a proper application, this High Court Appeal is not maintainable on such a premise and is accordingly dismissed in limine, along with all pending applications.

The appellant however will be at liberty to approach the learned Single Judge for redressal of his grievance.

JUDGE

JUDGE