

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.1568 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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1. For hearing of CMA No.6963/2021.
2. For hearing of CMA No.19288/2021.
3. For hearing of CMA No.19289/2021.

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Dated 03.11.2022

Mr. Faraz Faheem Siddiqui, Advocate for the plaintiff.
Mr. Sufiyan Zaman, Advocate for the defendant.

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1. This is an application for attachment of the property during pendency of this suit under Fatal Accident Act. In an affidavit the deponent stated in para-6 that he feared that the defendant may disposed of their belongings and run away, however, there is no reason which could justify such fear and mere apprehension, as disclosed in the affidavit, may not be sufficient. The Trust foundation running the hospital is very much in existence and the hospital is being run under the Trust and according to the plaintiff's counsel, making profits. It is thus not presumable that the said entity would run away facing trial under Fatal Accident Act, 1855. In case, however, any concrete evidence of above fear is provided and fresh application is moved, the same shall be taken into consideration. Present application however lacks such consideration and as such is dismissed.

2. In relation to this application, learned counsel at his own requested to delete the name of defendant No.3 from the array. Let amended title be filed. Application is accordingly disposed of.

3. This is an application under Order VII Rule 11 CPC. The primary reliance by the defendants is placed on Sindh Healthcare Commission Act, 2013 in consideration whereof a case of *Muhammad Aslam vs. Dr. Imtiaz Ali Mughal & others* was taken into consideration

reported as *PLD 2010 Karachi 134* where the issues of criminal negligence and tort were dilated upon, however, Mr. Sufiyan has not been able to cite any provision thereunder whereby a suit under Fatal Accident Act 1855 could be stated to be barred. The plaint could only be rejected in terms of Order VII Rule 11 CPC whereby it could be established that such proceedings under *ibid* Act could not commenced in view of any applicable or restrictive covenant as to the proceedings thereunder. The application as such is dismissed.

JUDGE

Ayaz Gul