

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**  
C. P. NO. D-2644 / 2023

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Date Order with signature of Judge

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**PRIORITY.**

- 1) For orders on office objection in C. P. No. D-2645/2023.
- 2) For hearing of Misc. No. 12718/2023.
- 3) For hearing of main case.

**07.06.2023.**

Mr. Adeel Ahmed Awan, Advocates for Petitioner.  
Petitioner No. 1 Abid Sachwani Director of the Company present  
on Court Notice.

Mr. Qazi Ayazuddin Qureshi, Assistant Attorney General.  
Mr. Imran Ali Maitlo, Advocate for Respondents No. 1 & 2.  
Mr. Khalid Rajpar, Advocate for Respondent No. 4.  
Mr. Haris Ahmed Khan, I.O.

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On the last date of hearing following order was passed.

**05.06.2023.**

Mr. Adeel Ahmed Awan, Advocates for Petitioner.  
Mr. Qazi Ayazuddin Qureshi, Assistant Attorney General.  
Mr. Imran Ali Maitlo, Advocate for Respondents No. 1 & 2.  
Mr. Khalid Rajpar, Advocate for Respondent No. 4.

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Mr. Imran Ali Maitlo has filed Vakalatnama on behalf of Respondents No. 1 & 2, whereas, Mr. Khalid Rajpar has filed Vakalatnama on behalf of Respondent No. 4 which are taken on record. Mr. Khalid Rajpar has pointed out that in respect of same goods declaration, Petitioner No. 1 has filed C. P. No. D-2512 of 2023 and has obtained an order dated 02.06.2023 whereby, the goods covered by the same goods declaration i.e. KPPI-HC-57486 dated 12.05.2023 have been passed by securing the amount as mentioned in such order. He submits that once again, in respect of the same goods declaration this Petition has been filed by Petitioner No. 1.

While confronted, Counsel needs time to assist; however, perusal of record reflects that at Page 61 the same goods declaration is available. In that case, the Petitioner No. 1 shall be in attendance and to explain as to how and in what manner this Petition has been filed to seek a fresh order.

To come up on **07.06.2023** at **09:30 A.M.**

Pursuant to the above order, Mr. Abid Sachwani, Director of Petitioner No. 1 is in attendance. He has been confronted in Court and he admits that C.P. No. D-2512/2023 was filed earlier in time in respect of the same Goods Declaration i.e. **KPPI-HC-57486 dated 12.05.2023** and an order

was also obtained from this Court on 2.6.2023, for release of the consignment, whereas, such fact about filing of an earlier petition was also brought to the knowledge of the present Counsel in this Petition. While confronted, Counsel submits that he was not apprised fully, whereas, in this petition the prayer sought is different. He has relied upon statement filed on 6.6.2023 after passing of the aforesaid order.

However, we are afraid this contention is belied from the facts available on record, including the statement of the Petitioner present before us today. In terms of Order 2 Rule 2 CPC<sup>1</sup>, all claims and prayers are to be sought together, and there is no concept of splitting the prayers in respect of the same cause of action i.e. the GD in this matter. The aforesaid provision provides that every Suit shall include the whole of the claim which the Plaintiff is entitled to make in respect of the cause of action; but a Plaintiff may relinquish any portion of his claim in order to bring the Suit within the jurisdiction of any Court and where a Plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, *he shall not afterwards sue in respect of the portion so omitted or relinquished*. Rule further provides that a person entitled to more than one relief in respect of the same cause of action may sue for all or any of such reliefs, but if he omits except with the leave of the Court, to sue for all such reliefs, he shall not afterwards sue for any relief so omitted. In this matter the earlier petition was filed on 22.5.2023, whereas, instant petition has been filed on 27.5.2023, when such fact was in the knowledge of the Petitioner and the Counsel. It is not in dispute that the cause of action is the Goods Declaration in question. Moreover, the memo of petition is also evasive, ambiguous and unclear on facts inasmuch as two petitioners have been joined together, whereas, nothing has been mentioned as to the details of the imported consignments, except attaching them as Annexures and that too in a vague manner. Such conduct of the

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**2. Suit to include the whole claim.**- (1) Every Suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the Suit within the jurisdiction of any Court.

Relinquishment of part of claim—(2) Where a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

Omission to sue for one of several reliefs—(3) A person entitled to more than one relief in respect of the same cause of action may sue for all or any of such reliefs; but if he omits, except with the leave of the Court, to sue for all such reliefs, he shall not afterwards sue for any relief so omitted.

Explanation: For the purposes of this rule an obligation and a collateral security for its performance and successive claims arising under the same obligation shall be deemed respectively to constitute but one cause of action.”

Petitioners Counsel cannot be appreciated and apparently an attempt has been made to obtain orders from the Court by concealing facts.

The conduct of Petitioner No.1 in filing two separate Petitions in respect of the same consignment, and non-disclosure of all facts including filing of a prior Petition on 22.5.2023 bearing C.P. No. D-2512/2023 in the instant Petition is an act of concealment and mis-representation of facts. Not only this on the last date of hearing an attempt was also made to obtain ad-interim orders and even when such fact was brought to our knowledge by the Respondents Counsel, no request was made to admit it and withdraw the petition. It is only after passing of order dated 5.6.2023, that a statement has been filed in defence and therein lastly a request has been made to permit withdrawal of this petition unconditionally.

The conduct of the Petitioner No.1 and its Counsel is not appreciable and does not warrant any leniency. In view of such position, this Petition is dismissed with cost of Rs. **50,000/-** upon the Petitioner No. 1 and Rs. **20,000/-** upon the Counsel for misleading the Court and distorting the facts of the case. Such cost shall be deposited within seven days' time from today in the account of Sindh High Court Clinic, failing which, the CNIC of Petitioner No. 1 and the Counsel shall be blocked through NADRA.

**J U D G E**

**J U D G E**

Arshad/