

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI

**High Court Appeal No. 389 of 2023**  
(Muhammad Nafees Arain & others Vs. Administrator Market Committee  
Karachi & 10 others)

<b>Dated</b>	<b>Order with signature of Judge</b>
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Present:  
Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Omar Sial

Hearing (Priority)Case

1. For hearing of Main Case
2. For hearing of CMA No. 4916/2023 (stay)

**Dated 25.01.2024**

Mr. Ali Azad Saleem, Advocate for the Appellants  
Mr. Muhammad Aziz Khan, Advocate for the Respondent No.2  
Mr. Abdul Jaleel Zubedi, AAG

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**Muhammad Shafi Siddiqui, J.-** This appeal is arising out of an order dated 12.10.2023, which has permitted the Respondent to file affidavit in evidence along with certain documents which were not, per learned counsel for the appellant, attached with the original pleadings or were filed after settlement of issues, and the matters were consolidated and are being tried together.

2. In the leading suit, the Commissioner has recorded evidence of plaintiff/appellant and their cross examination whereas, at the stage the defendants evidence, they were directed to file affidavit in evidence. Question arose whether such documents as attached with the affidavit in evidence could be exhibited.

3. Appellants' case is that his rights will be prejudiced if those documents are taken on record, while recording the evidence and cross examination of the Respondents. Although the Respondents could be subjected to cross-examination but in all fairness all those documents which

were not filed after framing of issues within the time prescribed ought to be explained by Appellants in their examination. These were claimed to have been filed along with the pleadings / written statement however denied to have been filed. An option was given to Appellant to file additional affidavit in evidence to rebut those documents to which he agreed. Notwithstanding, whether such documents were filed after settlement of issues but since a chance is being given to Appellants, it is a fair opportunity availed.

4. Learned counsel for the Appellants opted the option referred above that he would be satisfied if he may be given a chance to rebut all documents which are now being filed along with the affidavit in evidence of the Respondents before the examination of Respondent and Appellant is permitted to file additional affidavit in evidence in relation to the document being filed by Respondents. Appellants were not provided with the copy of documents likely to be filed, Let such copies be provided in a week's time. It is expected that the evidence in the matter shall be concluded within a period of six months.

5. The appeal along with listed application is disposed of in above terms.

*JUDGE*

*JUDGE*

Amjad PS