

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

First Appeal No.48 of 2021

Mr. Muhammad Asif Shafi
Versus
Mr. Intikhab and another

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
------	-----------------------------------

Present:
Mr. Justice Muhammad Shafi Siddiqui
Justice Ms. Sana Akram Minhas.

Hearing case (Priority)

1. For order on office objection/reply "A".
2. For hearing of main case.
3. For hearing of CMA No.1125/2021 (Stay)

.....

Dated 15.05.2024

Mr. Nusrat Ali Shar, Advocate for the appellant.

M/s. Muhammad Amin Motiwala and Muhammad Yahya,
Advocates for Respondent No.1.

.....

Muhammad Shafi Siddiqui, J.- A summary suit No.67/2019 was filed and summons were issued to the appellant who filed a leave application. The leave application was heard and decided by an order dated 22.08.2020 and the appellant could not fetch an unconditional leave.

2. Although this appeal is against the final judgment and decree wherein grounds were raised that the appellant was not able to comply with the conditional order of leave, hence we are compelled to see the order which deals with the conditional grant of leave. It seems that none of the grounds, as raised in the leave application supported by a legal notice to some individuals including the Respondent No.1, has been mentioned or discussed in the order with any kind of reasoning.

3. It is appellant's case that the amount was paid for some obligations to be completed by the Respondent as undertaken by them and mentioned in the legal notice and paras-3 and 4 in

particular, of leave application. In fact Respondent No.1 was only a front man. Some individuals were entrusted with some obligations mentioned in the notice and Respondent No.1 only stated to be front man. We have enquired from the learned counsel for the Respondent that on what count this payment through cheque was undertaken, no plausible answer is given; in fact the counsel kept quiet on enquiry that the cheque was issued on account of some obligations undertaken by Respondent No.1 and others which was not accomplished.

4. Incidentally, the leave order does not contain any reasoning as to the grounds raised in the leave application. It seems that a routine order for disposal of the application was passed without logical answers to the grounds and as to whether such grounds would fetch a conditional or unconditional leave order.

5. We therefore are of the view that there are sufficient grounds raised in the leave application supported by documents which calls for grant of unconditional leave. We therefore deem it appropriate to set aside the impugned judgment and order dated 22.08.2020, grant leave to the appellant and remand the case back for the trial, which shall be expeditious and may not take more than three months.

6. With this understanding, the appeal stands disposed of along with pending application(s).

JUDGE

JUDGE

Ayaz Gul