

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
 Suit No.302 of 2010

Date	Order with signature of Judge
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1. For orders on CMA No.2022/2024.
2. For orders on CMA No.20718/2023.

29.02.2024.

Mr. Mukesh Kumar G. Karara, Advocate for the Plaintiffs
 alongwith Mr. Sajid Ali, Advocate.
 M/s. Asim Iqbal and Farmanullah Khan, Advocates for the
 Defendant No.1.

Learned counsel for the Defendant No.1 draws attention to the Order made on the preceding date, noting the demise of the sole Plaintiff. He points out that the Suit is one for recovery of damages, based on an allegation that the plaintiff had suffered malicious prosecution in Case No.37/2002 registered by the Special Court (Offences in Banks), Sindh, at Karachi, arising out of FIR No.17/1995, FIA CBC, Karachi, under Section 409/477-A/34 PPC. He submits that the espoused cause of action, being personal to the Plaintiff, stands abated on his demise.

Confronted with that submission, learned counsel for the Plaintiff acknowledged the fact of the Plaintiff's demise and conceded that a claim for damages was no longer maintainable under such circumstances. However, he sought to contend that the Suit could still be maintained by the legal heirs against the Defendant No.1 to the extent of claiming the emoluments and benefits payable to the deceased as an incidence of his service. However, when that contention is examined in the context of the Plaintiff, it is manifest that the pleadings are bereft of any averment as to any claim other than that for damages on the aforementioned score. Even otherwise, a statement has been filed in Court today on behalf of the Defendant No.1, submitting that no such emoluments or benefits are payable, and on the contrary, an amount of Rs.478,191/- was recoverable from the deceased.

Under such circumstances, it is manifest that the cause of action underpinning the Suit stands abated. Hence the Suit stands dismissed accordingly, along with the pending miscellaneous applications.

MUBASHIR

JUDGE