

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
H.C.A. No.82 of 2024

Date

Order with signature of Judge

FRESH CASE:

1. For order on CMA No.500/2024 (Urgent).
 2. For order on office objection a/w reply as at 'A'.
 3. For order on CMA No.501/2024 (Exemption).
 4. For hearing of main case.
 5. For order on CMA No.502/2024 (Stay).
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Dated; 1st March 2024

Mr. Faisal Siddiqui, Advocate for Appellant.

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1. Urgency granted.
 2. Learned counsel for the petitioner undertakes to comply with office objection(s) before the next date of hearing.
 3. Exemption granted subject to all just exceptions.
- 4&5. Instant High Court Appeal has been filed against the order dated 28.02.2024 passed by the learned Single Judge of this Court in Suit No.799 of 2018, whereby, according to learned counsel for the appellant, CMA No.6921/2018 filed by the respondents seeking injunctive relief regarding closure of the appellant's school, which is admittedly operating since 2001, whereas, the subject suit was filed in the year 2018, therefore, the appellant had filed application bearing CMA No.7406/2018 under Order VII Rule 11 CPC seeking rejection of plaint on various legal grounds, including limitation and laches, however, inspite of having taken cognizance of such fact and while hearing the matter to the instant application under surveillance the order has been passed on the injunction application, whereby, the ultimate relief sought in the suit has been granted while restraining the defendants to use the subject property i.e. Plot No.78, Hatim Alvi

Road, Old Clifton Road, Karachi and/or permitting the use thereof, for any purpose other than residential and further restrained from using and/or permitting the use thereof, the same for a school, until final disposal of the suit. However, according to learned counsel for the appellant, the hearing of CMA No.7406/2018 filed under Order VII Rule 11 CPC and CMA No.1800/2018 has been adjourned to 08.03.2024. According to learned counsel, the appellant has already applied for change of land use regarding subject plot in terms of Regulations 18-4-2.2. of The Karachi Building and Town Planning Regulations, 2002 firstly in the year 2008 and thereafter, again applied on the directions of the Master Plan Group Office, SBCA, Karachi in the year 2018, which is still pending, however, this aspect of the matter has not been taken into consideration by the learned Single Judge while passing the impugned order, which will seriously affect the academic session of the students of the subject school whose exams are scheduled to be held in the month of April and May 2024.

Mr. Omer Memon, Advocate has shown appearance, files vakalatnama on behalf of the respondents No.1 to 14 and requests for time to file objection/reply. Learned counsel for the appellant, however, submits that appellant will be satisfied if instant High Court Appeal may be disposed of while setting aside the impugned order with the direction to the learned Single Judge to decide all the pending applications, particularly application under Order VII Rule 11 CPC, as well as injunction application afresh on the next date of hearing i.e. on 08.03.2024 after hearing the counsel for the parties. Learned counsel for the respondents while supporting the impugned order passed by the learned Single Judge, keeping in view the forthcoming exams scheduled in April & May 2024, as intimated by learned counsel for the appellant, does not oppose such proposal of the learned counsel

for appellant, however, submits that the disposal of instant High Court Appeal in the above terms shall not prejudice the mind of the learned Single Judge while deciding the injunction application in the above similar terms.

Accordingly, in view of such candid and fair statement by the learned counsel for the appellant and keeping in view the facts and circumstances of the case, instant High Court Appeal is disposed of while setting aside the impugned order passed by the learned Single Judge on the injunction application (CMA No.6921/2018) with the direction that the aforesaid application may be heard and decided afresh alongwith all pending applications, including application under Order VII Rule 11 CPC, preferably, on 08.03.2024, when the matter is already fixed, provided no party shall seek any unnecessary adjournment on the aforesaid date of hearing.

Instant High Court Appeal stands disposed of in above terms alongwith listed applications.

CHIEF JUSTICE

JUDGE

Farhan/PS
